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Supreme Court, U.S.
FILED

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NO. _____

In The

Supreme Court of the United States

October Term, 1995

James Clifford Brunson,
Petitioner
vs.

The People of the State of California,
Real Party in Interest, Respondent.

On Petition For Writ of Certiorari
To The Supreme Court of
The State of California

PETITION FOR WRIT OF CERTIORARI

James Clifford Brunson
c/o 5225 West L-2
Quartz Hill, California [93536]
(805) 943-4475
In Propria Persona

Date 7-16-1996

100pp

QUESTIONS PRESENTED FOR REVIEW

Issues presented for review are as follows:

1. Did the Municipal Court, Los Angeles Judicial District, San Fernando Branch (Trial Court) violate petitioner's Due-process by denying:

a. the petitioner's defense of a religious conviction, and belief during trial;

b. the petitioner the right to inform and instruct the Jury, of his religious convictions, beliefs and tenets as protected by California Constitution Article 1, Section 4 and the First Amendment of the Constitution for United States of America and the "**Religious Freedom Restoration Act of 1993**;"

c. the petitioner's request for counsel?

2. Does the provision of California Motor Vehicle Code (C.V.C. §§ 12800-12801), mandating (without exception) that petitioner provide a Social Security Number as a prerequisite for obtaining a California Driver's License:

a. violate petitioner's Rights in and to Freedom of Religion as protected by California Constitution Article 1, Section 4 and the First Amendment of the Constitution for United States of America.

3. Does the Opinion of the Appellate Department of the Superior Court, Los Angeles County dated November 20th, 1995, violate the legislative intent of the "**Religious Freedom Restoration Act of 1993**?"

The caption in the style of this writ contains the names of all the parties to this proceeding, such parties being James Clifford Brunson, Petitioner, and The People of the State of California, Real Party in Interest, Respondent.

IN THE
SUPREME COURT OF THE UNITED STATES
October, Term 1995

James Clifford Brunson,
Petitioner
vs.
The People of the State of California,
Real Party in Interest, Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT

Petitioner, James Clifford Brunson, hereinafter "petitioner," requests that a Writ of Certiorari issue to review the California Supreme Court's denial of petition for review and the opinion of the Appellate Department of the Superior Court, Los Angeles County, California, which affirmed petitioner's conviction in the Municipal Court of Los Angeles County on the basis that:

> "a driver's license is a neutral law not aimed at the promotion or restriction of religious convictions. In addition, the laws

> have a very valid justification, in that it allows the state to identify drivers and to learn whether the applicant has a driving record in another state, which in turn would enable the state to deny licenses to those who have bad driving records in other states.
>
> Thus, it is apparent the state has a compelling interest in requesting a social security number, the infringement on appellant's religious beliefs is justified".

Petitioner's petition to this Honorable Court involves religious freedoms and the right to raise his religious convictions as a defense...and instruct the jury of his religious convictions. During the hearing petitioner was ordered (by the trial Judge in chambers) not to present these issues to the court or the jury, leaving petitioner without a legal defense.

This Petition also presents a challenge to California Motor Vehicle Code (C.V.C. §§ 12800-12801), which mandates (without exception) that petitioner provide a Social Security Number as a prerequisite for obtaining a California Driver's License.

Petitioner's argument is based on and supported by:

1) petitioner's guaranteed rights in and to freedom and enjoyment of religious convictions under California Constitution Article I, Section 4; and

2) petitioner's rights to religious freedom under the

First Amendment of the Constitution for the United States of America; and

3) the "**Religious Freedom Restoration Act of 1993.**"

These questions presented to this Court are of monumental significance and challenge the lawful power of the State of California Courts to rule on compelling interest of the State without allowing the defendant to fully brief the court of his religious convictions and beliefs. These questions also challenge the lawful power of California Legislature to pass laws that violate religious freedom. Religious freedom is a fundamental part of the very foundation of our great country known as the United States of America.

Prior to this date, the questions presented for review herein have been considered by the Municipal Court, Los Angeles Judicial District, San Fernando Branch (initial conviction dated September 21st, 1994), the Appellate Department of the Superior Court, Los Angeles County (See Appendix A-1) opinion dated November 20th, 1995)), the California Court of Appeal, Second Appellate District (See Appendix A-4) petition for Review denied, February 29th, 1996)), and the Supreme Court of California (See Appendix A-5) petition for Review denied, April 17th, 1996)).

Petitioner argues that the questions presented are clearly judicial in nature and plainly fall within the

confines of the jurisdiction of This Honorable Court as the protector of the liberties and religious freedoms of the American People.

Petitioner now petitions this Honorable Court for a Writ of Certiorari pursuant to United States Supreme Court Rule 13.

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Wisconsin v. Yoder, (1972) 406 U.S. 205.

Leary v. United States, 383 F.2d 851 (5th Cir. 1967), rev'd on other grounds, 395 U.S. 6 (1969).

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Katz v. United States, (1967) 389 U.S. 347.

Wong Sun v. United States, (1963) 371 U.S. 471.

Jones v. United States, (1958) 357 U.S. 493.

United States v. Lexi Michelle Bauer,--Calvin John Treiber,-- Cameron Scott, Best-- Dawn, Meeks,--Jodi Elleyn, Israel,--Kelly Wegner,--Ernie martinez,--Pedro Pereda Ramirez, (cite as 96 Daily Journal D.A.R. 5716) (reproduced in Appendix A-20-28)

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(reproduced in Appendix A-8-9)

California Penal Code § 1538.5.

FILED
Los Angeles Superior Court
NOV 20 1995
By B. J. Schneider, Deputy

APPELLATE DEPARTMENT OF THE SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF	)	Superior Court No.
Plaintiff and Respondent,	)	BR 34701
v.	)	Municipal Court
	)	of Los Angeles
	)	Judicial Dist. No.
James Brunson,	)	94F 04714
Defendant and Appellant.	)	Memorandum
	)	Judgment

This cause having been submitted for decision, and fully considered judgment is ordered as follows:
The judgment is affirmed.

Appellant challenges his conviction following a jury trial for driving without a driver's license (Veh. Code § 12500, subd.(a)) and driving an unregistered vehicle (Veh. Code, § 4000, subd. (a)). Appellant contends these Vehicle Code sections are unconstitutional as applied to

him, for he declares that registering for a social security number (a prerequisite for obtaining a California Driver's License) and registering his vehicle violates his religious beliefs.[1]

The First Amendment provides in part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." This provision is enforceable against the states through the Due Process Clause of the Fourteenth Amendment (**Cantwell v. Connecticut**, (1940) 310 U.S. 296, 303.) While states may not promulgate a law which violates the Free Exercise Clause of the First Amendment, the United States Supreme Court has consistently held that "the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." **Employment Div. Dept. Of Human Resources v. Smith**, (1990) 494 U.S. 872, 879, quoting **United States v. Lee**, (1982) 455 U.S. 252, 263, n. 3.)

Requiring a social security number in order to receive a driver's license is a neutral law not aimed at the promotion or restriction of religious convictions. In addition, the laws have a very valid justification, in that

---

[1] It is appellant's belief that these numbers are developing into a mark that will be used as an identifier. This "identifier" is equated with the "mark of the beast" as described in the Bible, Book of Revelations 13:16, 14:9-10. We do not question the sincerity of appellant's beliefs.

it allows the state to identify drivers and to learn whether the applicant has a driving record in another state, which in turn would enable the state to deny licenses to those who have bad driving records in other states. Thus, it is apparent the state has a compelling interest in requesting a social security number; the infringement on appellant's religious beliefs is justified.

Appellant also contends the requirement that an applicant have a social security number violates the federal supremacy clause. However, appellant's contention is made without argument or any citation to authority, and therefore is summarily rejected. (See **People v. Dougherty**. (1982) 138 Cal.App.3d 278, 282-283).

Accordingly, the judgement is affirmed.

"s/_____"
Roberson, P.J.

We concur.

"s/_____"
Johnson, J.

"s/_____"
Watai, J.

JURISDICTION

Jurisdiction of this Honorable Court is invoked as a Petition For Writ of Certiorari from the denial of the Supreme Court of the State of California. Their decision to deny this Petitioner's petition for review was filed on April 17th, 1996. Your Petitioner now files this Petition for a Writ of Certiorari to the United States Supreme Court.

The validity of the judgment of the State Court is drawn into question on the grounds that the First Amendment of the Constitution for the United States of America will hold the California State Court judgment in abatement. Further petitioner believes that the Appellate Department, Los Angeles Superior Court exceeded their jurisdictional boundaries as provided by legislature, in their ruling and opinion, on November 20th, 1995. (See Appendix A-1).

Petitioner hereby petitions this Honorable Court for review of the decision of the Appellate Department, Los Angeles Superior Court, State of California, No. BR 34701 filed on November 20th, 1995 (See Appendix A-1), and the decision of the Court of Appeal, Second Appellate District, Division Five of the State of California, No. B099909 filed on February 29th, 1996 (See Appendix A-4), and the decision of the Supreme Court of California, No. S052295 filed April 17th, 1996

(See Appendix A-5), denying the petition for review, and affirming the judgment of the trial court in favor of the respondents (The People of the State of California). A copy of the decision of the Los Angeles Superior Court Appellate Department showing the date of its filing is set forth herein as Appendix A-1. A copy of the decision of the California Court of Appeal showing the date of its filing is set forth herein as Appendix A-4. A copy of the decision of the Supreme Court of California showing the date of its filing is set forth herein as Appendix A-5.

Review by this Court is necessary on the grounds that the decision of the Superior Court Appellate Department is not in line with the authorities cited herein. The denial of the California Supreme Court, and refusal to answer the important questions of law.

Petitioner petitions this court for a Writ of Certiorari to secure uniformity of decision and important questions of law that are at issue herein requiring settlement by this Honorable Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

California Constitution Article I, Section 1:
reproduced in Appendix A-6

California Constitution Article I, Section 4:
reproduced in Appendix A-6

California Constitution Article III, Section 1:
reproduced in Appendix A-6

California Constitution Article III, Section 3:

reproduced in Appendix A-6

California Vehicle Code § 4000 (a):
reproduced in Appendix A-7

California Vehicle Code § 12500 (a):
reproduced in Appendix A-7

California Vehicle Code § 12800:
reproduced in Appendix A-7-8

California Vehicle Code § 12801:
reproduced in Appendix A-8-9

United States Constitution, Article VI, Section 2:
reproduced in Appendix A-9

United States Constitution, First Amendment:
reproduced in Appendix A-9

United States Constitution, Sixth Amendment:
reproduced in Appendix A-9

Religious Freedom Restoration Act of 1993:
reproduced in Appendix A-12-13

STATEMENT OF THE CASE

This petition for review is from a judgment and verdict, wherein petitioner **James Clifford Brunson** was found guilty of two separate misdemeanors, which involved appellant's driving a motor vehicle without a valid California Driver's License, and operating a motor vehicle, not registered with the Department of Motor Vehicles of the State of California. (Sentence 15 days in jail and fifty dollar fine).

Petitioner contends the statutes upon which his convictions are predicated are unconstitutional applied to him and others in his class, in that the statutes are violative of **(1)** petitioner's free exercise of his religious

convictions, (2) Petitioner should have been permitted, to raise his religious convictions as a defense...and instruct the jury of his religious convictions (regarding the required use of a Social Security Number and it being the number described in Revelations as the Mark of the Beast). (See Appendix A-10-11 and A-38-56).

Petitioner should have been permitted to show how the statutes were being unconstitutionally applied to the defendant because of his religious beliefs. The trial court should have dismissed the complaint of information against petitioner, due to the unconstitutional application of the statutes, or the trial court should have instructed the jury, "sua sponte" to return a verdict of "not guilty" on all counts predicated upon the petitioner's religious convictions, beliefs, and tenets and the unconstitutional application of the subject statutes.

During an in camera hearing, petitioner was ordered not to argue his religious convictions as a legal defense and not to instruct the jury of his religious convictions. (See Appendix A-10-11).

On or about March 2nd, 1995, petitioner, in due diligence and good faith, further sought redress of grievances by way of Mandamus in the Superior Court, County of Los Angeles, State of California. After briefing and oral argument, the Superior Court concurred

with petitioner that said California Vehicle Codes in question herein "constitute a violation of petitioners' free exercise of religion rights." granting mandamus and ordering the Department of Motor Vehicles of the State of California to issue petitioner a California Driver's License without petitioner providing a Social Security Number (See Appendix A-29-32).

To date, petitioner has only been issued a temporary driver's license from the State of California, Department of Motor Vehicles. The State of California, Department of Motor Vehicles has at all times refused to honor the Superior Court Order, mandating the State of California, Department of Motor Vehicles issue petitioner a permanent drivers license.

REASONS FOR GRANTING THIS WRIT

Review by this Court is necessary to promote uniformity of law, on the grounds that the decision of the court of appeal is not in line with the authorities cited herein. It also appears this decision may deprive the petitioner from his right to RELIGIOUS FREEDOM AND LIBERTY AND FURTHER DEPRIVE PETITIONER OF THE PROTECTIONS OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION.

To date the petitioner has presented these questions herein for review to the courts. The issues have been considered by the Municipal Court, Los Angeles Judicial

District, San Fernando Branch (initial conviction dated September 21st, 1994), the Appellate Department of the Superior Court, Los Angeles County (See Appendix A-1) opinion dated November 20th, 1995)), the California Court of Appeal, Second Appellate District (See Appendix A-4) petition for Review denied, February 29th, 1996)), and the Supreme Court of California (See Appendix A-5) petition for Review denied, April 17th, 1996). The petitioner has presented these issues to the aforementioned courts and the courts chose to ignore and refuse to answer these important questions of law.

The United States Supreme Court's ruling is necessary to **secure uniformity of decision**, and to answer **important questions of law** that are at issue herein, requiring settlement by this Court and also to protect the petitioner's liberties and constitutional rights of freedom of religion.

THE DECISION OF THE COURTS IN THIS INSTANT CASE ARE IN CONFLICT WITH DECISIONS OF CALIFORNIA SUPREME COURT.

In a recent California Supreme Court decision on this very matter regarding the "**Religious Freedom Restoration Act of 1993**" and the First Amendment of the Constitution regarding religious freedoms, quoting a portion of the concurring opinion by MOSK, J. of the California Supreme Court, **Evelyn Smith v. Fair Employment and Housing Commission**, cite as 96 Daily Journal D.A.R. 4067 filed April 9, 1996. (See Appendix 14-19):

"**II** Proceeding from the Constitution, we now turn to the Religious Freedom Restoration Act of 1993. A brief review of the statute is in order. Section 1 of RFRA gives the statute's short title, which of course is the "Religious Freedom Restoration Act of 1993."

Section 2 of RFRA states Congress's findings and declares the statute's purposes. (42 U.S.C. sec. 2000bb.) Subsection (a) sets out the findings: "(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;" "(2) laws "neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;" "(3) governments should not substantially burden religious exercise without compelling justification;" "(4) in **Employment Division v. Smith**, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion;" "(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests." (42 U.S.C. sec. 2000bb(a). Subsection (b) announces the purposes: "(1) to restore the compelling interest test as set forth in **Sherbert v. Verner,** 374 U.S. 398 (1963) and **Wisconsin v. Yoder,** 406 U.S. 205 (1972)

and to guarantee its application in all cases where free exercise of religion is substantially burdened"; and (2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government (42 U.S.C. sec. 2000bb(b))."

THE DECISION OF THE COURTS IN THIS INSTANT CASE IS IN CONFLICT WITH RECENT DECISION OF COURT OF APPEAL NINTH CIRCUIT.

In **United States v. Lexi Michelle Bauer,--Calvin John Treiber,-- Cameron Scott, Best-- Dawn, Meeks,-- Jodi Elleyn, Israel,--Kelly Wegner,--Ernie martinez,-- Pedro Pereda Ramirez**, (cite as 96 Daily Journal D.A.R. 5716) (See Appendix 20-28) quoting from page 5719:

"II. RELIGIOUS USE DEFENSE UNDER THE RELIGIOUS FREEDOM RESTORATION ACT

Calvin Treiber, Dawn Meeks, and Lexi Bauer have presented themselves as Rastafarians. We focus here on an issue of first impression: the interaction of the Religious Freedom Restoration Act of 1993 with the claim of use by Rastafarians of marijuana for religious purposes.

A. Proceedings

The religious issue was first raised in June 1993 by Meeks who sought funds under 18 U.S.C. § 3006A(e)(1), which provides that counsel for a person financially unable to obtain expert services

necessary for adequate representation may request the funds in an ex parte application. Counsel for Meeks sought money to pay for a physician to testify as an expert on her medical needs and a theologian to testify as an expert on her use of marijuana for both religious and medical reasons. The motion was denied by the district court.

On September 24, 1993, the district court granted the government's motion in limine to preclude the appellants from presenting testimony or evidence on their possession or use of marijuana for religious purposes as a legal defense. The district court granted the motion "upon review of the pleadings." The district court relied on **Employment Division v. Smith**, 494 U.S. 872 (1990).

The trial began on October 3, 1993. Meanwhile the Religious Freedom Restoration Act was proceeding through Congress. It had been introduced with one hundred twenty co-sponsors and was passed by the House on May 11, 1993.

It was passed by the Senate with amendments on October 27, 1993. On November 3, 1993, the House and Senate agreed to amendments, and the bill was sent to Present Clinton, who signed it into law on November 16, 1993.

On November 17, 1993, the defendants drew the district court's attention to the report of the President's signing of the bill and, while professing not to know whether it was retroactive, renewed their

objection to the court's in limine ruling. Counsel for Treiber moved to reverse the courts order "with regard to the First Amendment defense." Counsel for Meeks joined in Treiber's motion. Bauer was already recognized as joining all relevant defense motions. The court did not change its position. Meeks also requested the district court to instruct the jury to use the balancing test of **Sherbert v. Verner**, 374 U.S. 398 (1963), and **Wisconsin v. Yoder,** 406 U.S. 205 (1972), in accordance with the Religious Freedom Restoration Act. The district court refused to grant the request.

After the trial, Treiber moved for acquittal under Rule 29 of the Federal Rules of Criminal Procedure because of the court's exclusion of evidence of the religious purposes of the defendants possessing or using marijuana. Defendants filed motions to join, but on January 27, 1994, the Government filed a notice that it would not respond further to motions to join, apparently relying on the court's prior order that all defendants were deemed to have joined in motions by their codefendants. In ruling on the Rule 29 motion, the district court analyzed an applied the Religious Freedom Restoration Act.

The district court first found that the challenged law substantially burdened the free exercise of the Rastafarian religion. Relying on several earlier appellate cases, the district court held, however, "that the government has an overriding interest in

regulating marijuana." The district court quoted **Leary v. United States**, 383 F.2d 851, 861 (5th Cir. 1967), rev'd on other grounds, 395 U.S. 6 (1969), as follows: "It would be difficult to imagine the harm which would result if the criminal statutes against marijuana were nullified as to those who claim the right to possess and traffic in this drug for religious purposes. For all practical purposes the anti-marijuana laws would be meaningless, and "enforcement impossible." The district court concluded that the government's in limine motion would have been granted even if the Religious Freedom Restoration Act had been the law of the land at the time.

Bauer, Meeks and Treiber appeal the district court's rulings as to the religious use of marijuana."

Further at page 5721, the Court held:

"The district court treated the existence of the marijuana laws as dispositive of the question whether the government had chosen the least restrictive means of preventing the sale and distribution of marijuana. **The district court relied on a drug case decided before the enactment of the Religious Freedom Restoration Act.**

". . . .Under RFRA, however, the government had the obligation, first, to show that the application of the marijuana laws to the defendants was in furtherance of a compelling governmental interest

and, second, to show that the application of these laws to these defendants was the least restrictive means of furthering that compelling governmental interest. The Act was relevant to the counts of simple possession."

" . . . . **As to the three counts on which the appellants were convicted of simple possession, the exclusion of the religious defense was in error**." (emphasis added).

LEGAL ARGUMENT

It is more than just well settled law that the Constitution for the United States of America, absolutely protects an individuals right to believe in anything he or she so chooses. Religious beliefs are not required to be consistent, or logical, or acceptable to others. In fact, Governmental questioning of the truth or falsity of the beliefs themselves is proscribed by the First Amendment to the Constitution for the United States of America, **Cantwell v. State of Connecticut**, (1940) 310 U.S. 296, 303, 60 S Ct. 900, 903. (Emphasis Added)

United States v. Ballard, (1944) 322 U.S. 78, 86, 64 S.Ct. 882, 886, 88 L.Ed. 1148, states in very relevant part:

"A religious belief can appear to every other member of the human race preposterous, yet merit the

protection of the Bill of Rights. Popularity, as well as verity, are inappropriate criteria. Freedom of thought, which includes freedom of religious belief, is basic in a society of free men . . . . It embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to followers of the orthodox faiths. Heresy trials are foreign to our Constitution. Men may believe what they cannot prove. They may not be put to the proof of their religious doctrines or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others . . . The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. Man's relation to his God was made no concern of the state. He was granted the right to worship as he pleased and to answer to no man for the verity of his religious views."

Petitioner is of the opinion that court possessed the power, prior to trial on the matter, to dismiss the action against him, on the ground that the Department

of Motor Vehicle's mandatory directives coupled with enforcement statutes of the California Vehicle Code violated the **First Amendment of the Constitution for the United States of America, Article I Section 4 of the California Constitution, and the Religious Freedom Restoration Act of 1993**; and

PETITIONER CONTENDS HE IS FORCED TO SUBMIT TO AN UNCONSTITUTIONAL APPLIED STATUTE, AND WAVE HIS FIRST AMENDMENT RIGHTS, AS PROTECTED IN THE RELIGIOUS FREEDOM RESTORATION ACT OF 1993.

In this particular happenstance, defendant, the now, petitioner **James Clifford Brunson**, contends that he was left with the decision to either, **(1)** submit to unconstitutional, denial of religious rights, fundamental, necessary and important, or **(2)** decline to suffer the breach of his constitutional rights and not comply with the unconstitutional application of the California Vehicle Code.

At time of trial the court, the **Honorable John C. Gunn, Judge, presiding,** determined that petitioner, during trial, could not raise as a defense, the unconstitutional application of California Vehicle

Code §§ 12500 (a) and 4000 (a). (See Appendix A-7 and A-38-56)

Petitioner was found guilty by jury for violation of "Count 1"California Vehicle Code § 12500 (a), driving without a valid California Driver's license and "Count 2" California Vehicle Code § 4000 (a) driving without a vehicle registration. (See Appendix A-7.)

Petitioner further contends that the trial court had the inherent power and discretion, to direct the jury to enter a verdict of "not guilty," in favor of plaintiff, after trial on grounds urged in this Certiorari, including, but not limited to the **First Amendment of the Constitution for the United States of America, the California Constitution (Article 1 Section 4), and the Religious Freedom Restoration Act of 1993.**

PETITIONER SHOULD HAVE BEEN ALLOWED TO INSTRUCT THE JURY OF HIS RELIGIOUS CONVICTIONS

One of petitioner's main contentions is the court's order (Trial Court), instructing the petitioner not to bring these religious issues before the jury. (See Appendix A-10-11 and A-38-56.) Petitioner moved to dismiss (See Appendix 33-37) the charges in the matter presently

before us, the Court sharply rejected theses religious argument stating. quoting from Trial Court transcript:

"I understand your desire to go into various issues that you have raised and I have ruled on them as we went along here today. but they are not to be brought before the jury because they are irrelevant to the issue of whether you were driving without a license or registration. So I am ordering you not to discuss or mention to in the presence of the jury the various matters of that nature, the concept of the or the ideas or the words involved, since they do not have anything to do with the issue in the case which is whether you were driving without a license and without registration.

So do not go into the idea or even mention this Sui Juris; whether the officer citing you complied with the Penal Code; the California rules of court; the California Judicial Council Rules; whether the actions of the court clerk, the court or the city attorney in processing your citation were proper; whether you were brought to trial within the time required by law; whether the complaint was properly filed or whether a complaint was properly filed; any California or United States Appellate Court decisions; any of the matters that were ruled on this morning by the court;

the courts rulings on any motions and this order I am making right now to you is not to be discussed with the jury either or mentioned.

You are reminded that disobeying an order of the court can result in contempt proceedings against you which could result in penalties of fine or jail or both.

If there is anything you don't understand about the literal wording of this order, I will be glad to try to explain it to you. But, I am not going to review the legal issues in this case, the legal points that I have ruled on. Anything you don't understand about me making this order and not the nature of the order whether you agree with it or not?"

In the instant matter before us the Court's instruction were so explicit that petitioner was left without a legal defense. By the Court own directive petitioner was to stand trial for a (malum prohibitum law) completely without the aid of due-process of law. Petitioner argues that the body of law is the proctor of the peoples liberty, thru the enforcement of the Court.

When in this great nation the people are deprived of the law and their religious beliefs and held to answer to allegations of crime without the protection of due--process, justice is completely out of reach from the

people.

One of the well settled fundamental foundations of our jurisprudence is the exercise of freedom of religion. In Wisconsin v. Yoder, 406 U.S. 205 (1972), we see the encouragement of well founded beliefs and convictions and the court's taking judicial notice of their religious beliefs and convictions. As we search today through our judicial system for the middle ground of serving our God, and complying with and excepting man's law, we ask this court for direction and guidance to find this middle ground.

PETITIONER PROCEEDED WITH A WRIT OF MANDATE TO ENFORCE HIS RIGHT TO HAVE A CALIFORNIA DRIVER'S LICENSE WITHOUT THE ACQUISITION OF A SOCIAL SECURITY NUMBER AND THE SUPERIOR COURT AGREED AND WRIT WAS GRANTED IN PETITIONER'S FAVOR

(See Appendix A-29-32.)

On or about March 2nd, 1995, petitioner **James Clifford Brunson**, petitioned on Writ of Mandate, the Superior Court of the State of California for the County of Los Angeles to order the State of California Department of Motor Vehicles to issue petitioner a

driver's license without requiring a social security number.

This statement was exacted from the Superior Court Order:

"The Court 'determined that petitioners' asserted beliefs are religious in nature and are sincerely held. and, further, that the requirement that petitioners must provide a social security number to the Department of Motor Vehicles before obtaining or renewing a driver's license and/or identification card constitutes a violation of petitioners' free exercise of religion rights under the First Amendment of the United States Constitution, and being fully advised in this matter, hereby ORDERS, ADJUDGES AND DECREES that:

1. The petition for Writ of Mandate is granted insofar as that the Department of Motor Vehicles may not require that these six petitioners provide a social security number to the department of Motor Vehicles in order to obtain or renew a driver's license and/or identification card;

2. The Department of Motor Vehicles may, however, utilize an alternative identifier, other than a social security number, in order to process any applications submitted by petitioners to obtain or renew a driver's license and/or identification card;

3. Prior to submitting any applications in order to obtain or renew a driver's license and/or identification card, petitioner's must contact Gary Oliver, Manager of the Public Inquiry Unit, Telephone Number: (916) 657 - 6560 so appropriate arrangements with petitioner' local Department of

Motor Vehicle's office can be made; and

4. The above orders apply exclusively to the following six petitioners. **James Clifford Brunson**. Michael Bromley. Steven Jones. Paul Villandry. Sol Fedder and Leo Guglielmo. and do not extent to any other individuals."

PETITIONER'S BELIEFS ARE WELL SETTLED DOCTRINE AND PETITIONER'S RELIGIOUS BELIEFS ARE ROOTED IN THE WORD OF GOD

The particular beliefs to which petitioner refer are:

(1) **The acquisition of the social security number would, at least, endanger petitioner's chances of being chosen for life after death and most probably, its acquisition, will condemn the recipient to death.**

(2) **Any use of the social security number for any other purpose other than the administration of social security, would, at least, endanger petitioner chances of being chosen for life after death and most probably, its acquisition, will condemn the recipient to death.**

The fundamental and primary source upon which petitioner's convictions are predicated is the **Bible**. More particularly, **New Testament, Book of Revelations, Chapter 13**. The biblical passages upon which petitioner's beliefs. evolve. speak to the existence of an **eminent conflict between God and State**. This conflict, through scripture interpretation. has resulted in the belief by petitioner and others of his class, that an omni powerful state will usurp the place of God on earth, and destroy those who will not make obeisance and tribute to

the state. (See Appendix A-38-56)

The case of **Stevens vs. Berger**, (1977) 428 F.Supp. 896, illustrates, appropriately and particularly, the scriptures upon which petitioner's beliefs are predicated.

The ***Stevens*** case, *supra*, states in pertinent part:

> "In the thirteenth chapter John writes of two great beasts, one coming up from the sea and the other from the land. Evidence presented by plaintiffs suggest agreement among scholars that the beast from the sea symbolizes the Emperor, while the beast from the land represents his priests who "exerciseth all the power of the first beast ... and causeth the earth and them which dwell therein to worship the first beast" according to St. John, the second beast had power to kill those who would not worship the first.
>
> Additionally, Revelation 13:16-18 states:
>
> **16.** [H]e causeth all, both small and great, rich and poor, free and bond, **to receive a mark in their right hand, or in their foreheads:**
>
> **17.** And that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name;
>
> **18.** Here is wisdom. Let him that hath understanding count the number of the beast: for it is the number of a man and his number is **Six hundred threescore and six.** The **"Mark of the Beast"** is what, according to plaintiffs, expert, sorts out those who are in favor with the temporal powers from those who will not survive the regime."

In further pertinent part ***Stevens***, *supra*, provides as follows:

> "Since having a social security number in this society has become a prerequisite for so many of

> society's benefits (both public and private sectors), no great leap of imagination is necessary to travel from the exegesis of **Revelation** to the plaintiffs' belief that such numbers could function. if the state were to become too powerful, like the mark of the Antichrist spoken of in the biblical text. With the history and literature marshaled by plaintiff to support his contention, his belief must be characterized as religious for purposes of this case."

Petitioner in this present matter contends that his religious tenets and beliefs, which instruct and command him in his refusal to comply with the directives of the California Vehicle Code, is a disablement, wholly grounded on his response to his literal interpretation of a Biblical injunction. (See **Wisconsin v. Yoder**, (1972) 406 U.S. at 216, 92 S.Ct. at 1533.)

Petitioner's failure and absolute refusal to either **(1)** acquire the federal social security number, (**Callahan v. Woods**, (9th Cir. 1981) 658 F.2d 679), or **(2)** if a number had been issued under the Social Security Act, to surrender, identify, deliver or disseminate said number by providing same to Department of Motor Vehicles of the State of California, (**Leahy v. District of Columbia**, (D.C. Cir 1987) 833 F.2d 1046), is predicated upon petitioner's **sincere and genuinely held religious beliefs.**

The foregoing is particularly true, in relation to the **Department of Motor Vehicles of the State of California** for a number of reasons. One such reason is

that the Department of Motor Vehicles does not, nor do they intend. to utilize the subject number for licensing or registration purposes.

California Vehicle Code § 12801 provides:

> "Notwithstanding any other law, the social security number collected on a driver's license application shall not be displayed on the driver's license, including, but not limited to, inclusion on any magnetic tape or strip used to store data on the license."

Further and other limitations of the use of the subject is California Vehicle Code § 1653.5, which states in relevant part:

> "An applicant's social security account number shall not be included by the department on any driver's license, identification card, registration, certificate of title, or any other document issued by the department."

It is irrefutable that the only purpose for collection of the social security number, by the Department of Motor Vehicles is for the dissemination, of the identifier, to other agencies of the Federal and State government and not for one compelling internal department interest. Without a showing of a compelling interest, there can be no collection from petitioner and others in their class, of a federal social security number.

OPINION DOES NOT PROPERLY APPLY TO THE MERITS OF THE RELIGIOUS FREEDOM RESTORATION ACT OF 1993

This statement is exacted from there decision on Appendix A-1-3:

> The First Amendment provides in part that; "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ."
>
> "This provision is enforceable against the states through the Due Process Clause of the Fourteenth Amendment. (**Cantwell v. Connecticut**, (1940) 310 U.S. 296, 303.) While states may not promulgate a law which violates the Free Exercise Clause of the First Amendment, the United States Supreme Court has consistently held that "the right of free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).'" (**Employment Div. Dept. Of Human Resources v. Smith**, (1990) 494 U.S. 872, 879, quoting **United States v. Lee**, (1982) 455 U.S. 252, 263, n. 3.)
>
> Requiring a social security number in order to receive a driver's license is a neutral law not aimed at the promotion or restriction of religious convictions. In addition, the laws have a very valid justification, in that it allows the state to identify drivers and to learn whether the applicant has a driving record in another state, which in turn would enable the state to deny licensees to those who have bad driving records in other states. Thus, it is apparent the state has a compelling interest in requesting a social security

number; the infringement on appellant's religious beliefs is justified. Appellant also contends the requirement that an applicant have a social security number violates the federal supremacy clause. However, appellants's contention is made without argument or any citation to authority, and therefore is summarily rejected. (See **People v. Dougherty**, (1982) 138 Cal.App.3d 278, 282-283). Accordingly, the judgment is affirmed."

Petitioner believes the RFRA would be applied retroactively; RFRA stated it was applicable to law and implementation of law whether adopted before or after date of RFRA's enactment, and to hold that RFRA was not to be applied retroactively would be to read "implementation" out of RFRA. Religious Freedom Restoration Act of 1993, Sec. 6(a), 42 U.S.C.A. Sec. 2000bb-3(a). **Bessard v. California Community Colleges**, 867 F.Supp. 1454 (E.D.Cal. 1994).

The case that the Superior Court has cited, (**Employment Div. Dept. Of Human Resources v. Smith**, (1990) 494 U.S. 872, 879 was not properly applied to petitioners arguments of the protected class that the **Religious Freedom Restoration Act of 1993** creates. Petitioner's religious belief in this case, are clearly protected by the First Amendment of Our Constitution for the United States of America and California Constitution Article I, Section 4, the Religious Freedom Restoration Act of 1993 and decisions of the Court such as such as **Bessard v. California Community Colleges**, 867 F.Supp. 1454 (E.D.Cal.

1994). It appears that Los Angeles Superior Court Appellate Department. California Court of Appeal and California Supreme Court has ignored the petitioners arguments and exhibits as presented and is the exact reason that this petitioner is requesting a Writ of Certiorari.

CONCLUSION

The petitioner respectfully urges The Honorable Court **to take judicial notice of the petitioners exhibits as evidence, and** to exercise it independent judgment, and rule on the issues of law before them to protect uniformity, and petitioner's Rights to Freedom of Religion, or in the alterative to issue a Writ of Prohibition to stop the trial court's judgment from violating petitioner's rights protected by the **First Amendment of the Constitution for the United States of America, and California Constitution Article I Section 4.**

The law on this matter is clear that an individual's religious beliefs must be accommodated even where it means making an exception to a rule which is reasonably applied to other individuals with different religious convictions.

In the instant case before the court these questions of law need to be properly addressed. This court's ruling is necessary to **secure uniformity of decision**, and to answer **important questions of law.**

The issue herein requiring settlement by this Honorable Court not only for this petitioner but also for the general interest of the public and to stop the

entanglement of governmental interference with the Peoples' religious convictions, and their right to freedom of worship.

The United States Supreme Court, the final authority in this nation on matters of law, and the guardian of the liberties of the American People, should review this matter of California Motor Vehicle Code 12801, which presently exist against the peace and dignity of this nation. Petitioner respectfully asks this Court to take judicial notice of my religious beliefs and conviction, just as the Court did in ***Yoder***.

This Court's direction and guidance is needed to resolve this First Amendment argument. Petitioner's goal is simply to exercise his religious freedoms and yet comply with man's law when ever possible.

Petitioner respectfully request This Petition for Writ of Certiorari therefore be granted.

Date: July 16, 1996

Respectfully Submitted,

James Brunson

James Clifford Brunson, in Propria Persona

APPENDIX A

OPINION BELOW

FILED

Los Angeles Superior Court

NOV 20 1995

By B. J. Schneider, Deputy

APPELLATE DEPARTMENT OF THE SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF	)	Superior Court No.
Plaintiff and Respondent,	)	BR 34701
v.	)	Municipal Court
	)	of Los Angeles
	)	Judicial Dist. No.
James Brunson,	)	94F 04714
Defendant and Appellant.	)	Memorandum
	)	Judgment

This cause having been submitted for decision, and fully considered judgment is ordered as follows:
The judgment is affirmed.

Appellant challenges his conviction following a jury trial for driving without a driver's license (Veh. Code § 12500, subd.(a)) and driving an unregistered vehicle (Veh. Code, § 4000, subd. (a)). Appellant contends these Vehicle Code sections are unconstitutional as applied to him, for he declares that registering for a social security

number (a prerequisite for obtaining a California Driver's License) and registering his vehicle violates his religious beliefs.[1]

The First Amendment provides in part that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . . " This provision is enforceable against the states through the Due Process Clause of the Fourteenth Amendment (**Cantwell v. Connecticut**, (1940) 310 U.S. 296, 303.) While states may not promulgate a law which violates the Free Exercise Clause of the First Amendment, the United States Supreme Court has consistently held that "the right of free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).'" **Employment Div. Dept. Of Human Resources v. Smith**, (1990) 494 U.S. 872, 879, quoting **United States v. Lee**, (1982) 455 U.S. 252, 263, n. 3.)

Requiring a social security number in order to receive a driver's license is a neutral law not aimed at the promotion or restriction of religious convictions. In addition, the laws have a very valid justification, in that it allows the state to identify drivers and to learn whether

---

[1] It is appellant's belief that these numbers are developing into a mark that will be used as an identifier. This "identifier" is equated with the "mark of the beast" as described in the Bible, Book of Revelations 13:16, 14:9-10. We do not question the sincerity of appellant's beliefs.

the applicant has a driving record in another state, which in turn would enable the state to deny licenses to those who have bad driving records in other states. Thus. it is apparent the state has a compelling interest in requesting a social security number; the infringement on appellant's religious beliefs is justified.

Appellant also contends the requirement that an applicant have a social security number violates the federal supremacy clause. However, appellant's contention is made without argument or any citation to authority, and therefore is summarily rejected. (See **People v. Dougherty**, (1982) 138 Cal.App.3d 278, 282-283).

Accordingly, the judgement is affirmed.

"s/_____"
Roberson, P.J.

We concur.

"s/_____"
Johnson, J.

"s/_____"
Watai, J.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

James Clifford Brunson	)	B099909
	)	
Petitioner,	)	(Super. Ct. No. BR34701)
	)	(Municipal Court, Los
V.	)	Angeles Judicial District,
THE SUPERIOR	)	No. 94F04714)
COURT OF LOS	)	
ANGELES COUNTY,	)	COURT OF APPEAL-
	)	SECOND DIST.
Respondent,	)	**FILED**
	)	FEB 29 1996
THE PEOPLE,	)	ORDER JOSEPH A. LANE Clerk
	)	
Real Party in Interest.	)	
_____	)	

THE COURT:

The petition for writ of review, filed February 22, 1996, has been read and considered. The petition is denied.

"s/_____" "s/_____" "s/_____"
TURNER,P.J. ARMSTRONG,J GODOY PEREZ,J

Second Appellate District, Division Five, No B099909
S052295

IN THE SUPREME COURT OF CALIFORNIA

James Clifford Brunson, Petitioner

v.

LOS ANGELES COUNTY
SUPERIOR COURT, Respondent
THE PEOPLE, Real Party
In Interest

SUPREME COURT
FILED
APRIL 17 1996
Robert Wandruff Clerk
DEPUTY

Petition for review DENIED.

LUCAS
Chief Justice

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

California Constitution Article I, Section 1:

"All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

California Constitution Article I, Section 4:

"Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion. A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs."

California Constitution Article III, Section 1:

"The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land."

California Constitution Article III, Section 3:

"The powers of State government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

California Vehicle Code § 4000 (a):

"No person shall drive, move, or leave standing upon a highway, or in an off street public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, logging dolly unless it is registered and the appropriate fees have been paid under this code, except that an off-highway motor vehicle which plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an off street public parking facility without being registered or paying registration fees."

California Vehicle Code § 12500 (a):

"No person shall drive a motor vehicle upon a highway, unless the person then holds a valid driver's license issued under this code, except those persons who are expressly exempted under this code."

California Vehicle Code § 12800:

Every application for an original or a renewal of, driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and social security number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has every previously

been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(I) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code."

California Vehicle Code § 12801:

(a) Notwithstanding any other provision of law, the department shall require every application for a driver's license to contain the applicant's social security number and any other number or identifier determined to be appropriate by the department.

(b) Notwithstanding any other law, the social security number collected on a driver's license application shall not be displayed on the driver's license, including, but not limited to, inclusion on

any magnetic tape or strip used to store data on the license."

United States Constitution, Article VI, Section 2:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land: and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding."

United States Constitution, First Amendment:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

United States Constitution, Sixth Amendment:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

IN THE MUNICIPAL COURT OF LOS ANGELES
JUDICIAL DISTRICT COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA

HON. JOHN C. GUNN, JUDGE DIVISION NO. 137

THE PEOPLE OF THE STATE OF CALIFORNIA	)	No. 94F04714
PLAINTIFF.	)	APPEAL
VS.	)	
James C. Brunson	)	
DEFENDANT(S)	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
SEPTEMBER 19, 20, 21, 1994

JURY TRIAL

FOR THE PLAINTIFF: CARMIN HAWKINS

DEPUTY CITY
ATTORNEY

FOR THE DEFENDANT: IN PROPRIA PERSONA

JOANNE ANFINSON
OFFICIAL REPORTER
C.S.R. No. 4754

COPY

START PAGE 27, LINE 27

THE COURT: THE ISSUE HERE IS WHETHER RELIGIOUS BELIEF WOULD BE A DEFENSE.

OBVIOUSLY, I HAVE NOT RESEARCHED THIS IN LENGTH, BUT, CERTAINLY, THERE ARE MANY THINGS THAT CAN BE REQUIRED THAT MAY BE OPPOSED TO SOMEBODY'S RELIGIOUS VIEWS. IT IS SOMETHING THAT IS VIEWED WITH GREAT CAUTION BEFORE YOU ORDER SOMEBODY TO DO SOMETHING THAT'S CONTRARY TO THEIR RELIGIOUS VIEWS. SINCE YOU CAN REQUIRE, I GUESS, INOCULATION AGAINST SMALLPOX AND THING LIKE THAT, I DON'T KNOW IF A LICENSE IS THE EQUIVALENT, BUT IT'S IN THE PUBLIC INTEREST.

MS. HAWKINS: A LICENSE IS ONLY REQUIRED TO OPERATE A CAR. YOU CAN OPERATE THE CAR, YOU CAN JUST, YOU CAN CHOOSE NOT TO GET A LICENSE.

THE COURT: MY POSITION IS, FRANKLY, WITHOUT RESEARCHING IN DEPTH, THAT IT CAN BE REQUIRED AND THAT WOULD BE MY POSITION, THAT YOU CANNOT GO INTO THE ISSUE OF YOUR RELIGIOUS VIEWS AND UNLESS THE ISSUE OF YOUR RELIGIOUS VIEWS WOULD BEAR ON IT, THE CASE, SOME OTHER WAY, I WON'T BE ASKING THEM ABOUT HOW THEY FEEL ABOUT YOU BEING INVOLVED WITH RELIGION, IN ANY WAY, BECAUSE IT'S NOT SOMETHING THAT'S APPROPRIATE TO GO INTO.

END PAGE 28, LINE 20

Religious Freedom Restoration Act of 1993, (Public Law 103-141 [H.R. 1308], 107 Stat. 1488, Title 42 U.S.C. § 2000bb et. seq.), dated November 16th, 1993 states in pertinent part:

"An Act to protect the free exercise of religion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Religious Freedom Restoration Act of 1993."

Section 2. Congressional Findings and Declaration of Purposes. (42 U.S.C. § 2000bb)

(a) Findings— The Congress finds that—

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as Laws intended to interfere with religious exercise;

(3) governments should not substantially burden religious exercise without compelling justification;

(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interest.

(b) Purposes--- The purpose of this Act are---

(1) to restore the compelling interest test as

set forth in Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder. 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened: and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

Section 3. Free exercise of Religion Protected.

(42 U.S.C. § 2000bb-1)

(a) In General.— Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception.— Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest: and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial Relief.— A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution."

Quoting a portion of the concurring opinion by MOSK, J. Of the California Supreme Court, Evelyn Smith v. Fair Employment and Housing Commission. cite as 96 Daily Journal D.A.R. 4067 filed April 9, 1996:

"II Proceeding from the Constitution, we now turn to the Religious Freedom Restoration Act of 1993. A brief review of the statute is in order.

Section 1 of RFRA gives the statute's short title, which of course is the "Religious Freedom Restoration Act of 1993."

Section 2 of RFRA states Congress's findings and declares the statute's purposes. (42 U.S.C. sec. 2000bb.) Subsection (a) sets out the findings: "(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;" "(2) laws "neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;" "(3) governments should not substantially burden religious exercise without compelling justification;" "(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion;" "(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests." (42 U.S.C. sec. 2000bb(a).) Subsection (b) announces the purposes: "(1) to restore the compelling interest test as set forth in Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened;" and (2) to provide a claim or defense to

persons whose religious exercise is substantially burdened by government." (42 U.S.C. sec. 2000bb(b).)

Section 3 of RFRA contains the statute's basic rule, the exception thereto, and the form of judicial relief. (42 U.S.C. sec. 2000bb-1.) Subsection (a) is the rule:

"Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability. . . ." (42 U.S.C. sec. 2000bb-1 (a).) Subsection (b) is the exception: "Government shall not substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person" "(1) is in furtherance of a compelling governmental interest" and "(2) is the least restrictive means of furthering that compelling governmental interest." (42 U.S.C. sec. 2000bb-1(b).) Subsection (c) concerns judicial relief: "A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. . . ." (42 U.S.C. sec. 2000bb-1(c).)

Section 4 of RFRA amends certain existing statutory provisions to authorize courts and administrative agencies to award the attorney fees to the prevailing party, other than the United States, in any action or proceeding in enforcement.

Section 5 of RFRA provides the following definitions: "(1) the term 'government' includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a State, or a subdivision of a State; (2) the term 'State' includes the District of Columbia, the commonwealth of Puerto Rico, and each territory and possession of the United States;" "(3) the term 'demonstrates' means meets the burdens of going forward with the evidence and of persuasion;" and "(4) the term 'exercise of religion'

means the exercise of religion under the First Amendment to the Constitution." (42 U.S.C. sec. 2000bb-2.)

Section 6 of RFRA contains provisions relating to the statute's coverage and meaning. Subsection (a) declares that the statute "applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after" its enactment. (42 U.S.C. sec. 2000bb-3(a).) Subsection (b) lays down as a rule of construction that "[f]ederal statutory law adopted after" the statute's enactment "is subject to" the act "unless such law explicitly excludes such application by reference" thereto. (42 U.S.C. sec. 2000bb-3(b).) Subsection (c) states that "[n]othing in" the statute "shall be constructed to authorize any government to burden any religious belief." (42 U.S.C. sec. 2000bb-3(c).)

Lastly, section 7 of RFRA, provides that "[n]othing in "the statute "shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion . . . ." (42 U.S.C. sec. 2000bb-4.)

When we construe RFRA, as we must, within its full context (e.g., People v. Swain (1996) 12 Cal.4th 593, 616-617 (conc. Opn. Of Mosk, J.)), which includes the First Amendment, Sherbert, Yoder, and Smith,[24] we

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[24] As with other statutes, RFRA's full context includes its legislative history. (E.g. Sen.Rep. No. 103-111, 1st Sess. (1993), reprinted in 1993 U.S. Code Cong. & Admin. At pp. 1892-1912; H.R.Rep. No. 103-88, 1st Sess. (1993) {1993 WL 158058 (Leg.Hist.)].) And as with all others, such legislative history amounts only to context, and should never be treated as though it were text: "for a statute, as it were, is a complete integration. Within its scope, it is the final and exclusive statement by the legislative body of its content, superseding all prior and contemporaneous expressions and implications, not only those that are directly contrary but even those that are altogether consistent. Perhaps more accurately, it is the

arrive at the following conclusions.

First. RFRA recognizes the First Amendment's absolute limitation against government's "burden[ing]" (RFRA sec. 6(c). 42 U.S.C. sec. 2000bb-3(c)) an individual's exercise of religion to the extent that it involves religious belief. (Compare RFRA sec. 3 (b), 42 U.S.C. sec. 2000bb-1 (b) [stating that "[g]overnment may substantially burden a person's exercise of religion," albeit only if it satisfies the "compelling government to burden any religious belief" (italics added)].) It thereby recognizes the First Amendment's effective grant to the individual of an absolute right to hold and profess whatever religious belief he chooses.[25]

Second, RFRA imposes a limitation against government's "substantially burden[ing]" (RFRA sec. 3(a), 42 U.S.C. sec. 2000bb-1(a)) an individual's exercise of religion to the extent that it involves religious conduct. It thereby effectively grants the individual a right to engage in such conduct unencumbered with such a burden.

Third, RFRA creates an exception from the limitation it imposes on government and the right it effectively grants to the individual against any "substantial burden" on the latter's exercise of religion. The exception requires government to "demonstrate[] that application of [such a] burden to the" specific religious conduct "(1) is in

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legislative body's final and exclusive enactment, displacing all terms and conditions of whatever sort that could, would, or might, have been passed." (Kopp v. Fair Pol. Practices Com., supra, 11 Cal. 4th at pp. 672-673, italics in original (conc. Opn. Of Mosk, J.).)

[25] RFRA does not purport to allow judicial relief from any "burden" on an individual's exercise of religion to the extent that it involves religious belief. (See RFRA sec. 3(c), 42 U.S.C. sec. 2000bb-1(c).)

furtherance of a compelling governmental interest" and "(2) is the least restrictive means of furthering that compelling governmental interest." (RFRA sec.3 (b), 42 U.S.C. sec. 2000bb-1(b).)

Fourth, the thus-qualified limitation RFRA imposes on government and the thus-qualified right it effectively grants to the individual against any "substantial burden" on the latter's exercise of religion are statutory. (Sen.Rep. No. 103-111, 1st Sess., pp. 2 & 14, fn. 43 (1993), reprinted in 1993 U.S. Code Cong. & Admin. News, at pp. 1893 & 1904, fn. 43 [speaking of a "statutory prohibition"]; H.R.Rep. No. 103-88, 1st Sess., p.____ (1993) [1993 WL 158058 (Leg.Hist.), p. 1] [speaking of a "statutory right"].)[26]

Fifth, the terms whereby RFRA imposes a limitation on government and effectively grants a right to the individual as to the latter's exercise of religion, and creates an exception to such limitation and right, are not defined by reference to the world at large, but are rather conduits for definition through the judicial process in light of pertinent pre-Smith federal court decisions. (See RFRA sec. 2(a)(5) & (b)(1), 42 U.S.C. sec. 2000bb(a)(5)

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[26]"A statute," of course, "cannot amend the constitution." (Pennsylvania v. Union Gas Co. (1989) 491 U.S. 1, 24 (conc. Opn. Of Stevens, J.).) RFRA does not even purport to do so. Certain language in its legislative history to the effect that congress's purpose was "to overturn the Supreme Court's decision in Smith " (Sen.Rep. No. 103-111, 1st Sess., p. 12 (1993), reprinted in 1993 U.S.Code Cong. & Admin. News, at p. 1902; accord, H.R.Rep. No. 103-88, 1st Sess. P.___ (19930 [1993 WL 158058 (Leg.Hist.), p. 11]) need not, and should not, be taken literally. (See H.R.Rep. No. 103-88, 1st Sess., p.___, fn. 3 (1993) [1993 WL 158058 (Leg.Hist.),p.15, fn. 3]["[T]he label 'restoration' in this context is appropriate. Congress writes laws-- it does not and cannot overrule the Supreme Court's interpretation of the Constitution and thus it is unable to 'restore' a prior interpretation of the First Amendment."].)

& (b)(1).)[1]

Sixth, RFRA applies to, and thereby displaces pro tanto, all other law and its implementation, whether federal or state, statutory or otherwise, coming before its enactment or after (RFRA sec. 6(a), 42 U.S.C. sec. 2000bb-3(a)), with the sole exception of any future federal statute explicitly excluding itself from its coverage (RFRA sec. 6(b), 42 U.S.C. sec. 2000bb-3(b)).[2]

Seventh, and most fundamental, all the RFRA is and all that it does depend on a threshold inquiry by a court into whether government action "substantially burdens" an individual's exercise of religion. (RFRA sec. 2(b)(1), 42 U.S.C. sec. 2000bb(b)(1); See RFRA sec. 3(a) & (b), 42 U.S.C. sec. 2000bb-1(a) & (b); see also RFRA sec. 2(a)(5), 42 U.S.C. sec. 2000bb(a)(5).) It simply adopts decisions. (See RFRA sec. 2(b)(1), 42 U.S.C. sec. 2000bb(b)(1); RFRA sec.2(a)(5), 42 U.S.C. sec. 2000bb(a)(5).)

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[1] By contrast, the terms whereby the American Indian Religious Freedom Act Amendments of 1994 imposes a limitation on government and effectively grants a right to the individual as to the latter's exercise of religion are in fact defined be reference to the world at large. (American Indian Religious Act Amendment of 1994 sec. 2(b)(1), 42 U.S.C. sec. 1996a(b)(1) ["Notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States or any State."].)

[2] As for RFRA's potential effect on federal constitutional law, the reader should recall that a "statute cannot amend the Constitution." (Pennsylvania v. Union Gas Co., Supra, 491 U.S. at p. 24 (con. Opn. Of Stevens, J.).)"

United States v. Lexi Michelle Bauer.--Calvin John Treiber.-- Cameron Scott. Best-- Dawn. Meeks.--Jodi Ellevn. Israel.--Kelly Wegner.--Ernie martinez.--Pedro Pereda Ramirez. (cite as 96 Daily Journal D.A.R. 5716) Quoting from page 5719.

II. RELIGIOUS USE DEFENSE UNDER THE RELIGIOUS FREEDOM RESTORATION ACT

Calvin Treiber, Dawn Meeks, and Lexi Bauer have presented themselves as Rastafarians. We focus here on an issue of first impression: the interaction of the Religious Freedom Restoration Act of 1993 with the claim of use by Rastafarians of marijuana for religious purposes.

Treiber, Meeks, and Bauer asserted that they are Rastafarians and were Rastafarians at the time of the charged offenses, and that Rastafarianism is a recognized religion. It is a religion which first took root in Jamaica in the nineteenth century and has since gained adherents in the United States. See Mircea Eliade, Encyclopedia of Religion 96-97 (1989). It is among the 1,558 religious groups sufficiently stable and distinctive to be identified as one of the existing religions in this country. See J. Gordon Melton, Encyclopedia of American Religions 870-71 (1991). Standard descriptions of the religion emphasize the use of marijuana in cultic ceremonies designed to bring the believer closer to the divinity and to enhance unity among believers. Functionally, marijuana -- known as ganja in the language of the region -- operates as a sacrament with the power to raise the partakers above the mundane and to enhance their spiritual unity.

A. Proceedings

The religious issue was first raised in June 1993 by Meeks who sought funds under 18 U.S.C. § 3006A(e)(1), which provides that counsel for a person financially unable to obtain expert services necessary for adequate representation may request the funds in an ex parte application. Counsel for Meeks sought money to pay for a physician to testify as an expert on her medical needs and a theologian to testify as an expert on her use of marijuana for both religious and medical reasons. The motion was denied by the district court.

On September 24, 1993, the district court granted the government's motion in limine to preclude the appellants from presenting testimony or evidence on their possession or use of marijuana for religious purposes as a legal defense. The district court granted the motion "upon review of the pleadings." The district court relied on Employment Division v. Smith, 494 U.S. 872 (1990).

On September 27, 1993, the district court granted Lexi Bauer's motion to adopt all pretrial motions by her codefendants and Dawn Meeks's motion "to join all other motions." (ER 175, 188). Subsequently, the district court granted Lexi Bauer's motion to join all other defense motions.

The trial began on October 3, 1993. Meanwhile the Religious Freedom Restoration Act was proceeding through Congress. It had been introduced with one hundred twenty cosponsors and was passed by the House on May 11, 1993.

It was passed by the Senate with amendments on October 27, 1993. On November 3, 1993, the House and Senate agreed to amendments, and the bill was sent to Present Clinton, who signed it into law on November 16, 1993.

On November 17, 1993, the defendants drew the

district court's attention to the report of the President's signing of the bill and. while professing not to know whether it was retroactive. renewed their objection to the court's in limine ruling. Counsel for Treiber moved to reverse the courts order "with regard to the First Amendment defense." Counsel for Meeks joined in Treiber's motion. Bauer was already recognized as joining all relevant defense motions. The court did not change its position. Meeks also requested the district court to instruct the jury to use the balancing test of Sherbert v. Verner, 374 U.S. 398 (1963). and Wisconsin v. Yoder, 406 U.S. 205 (1972). in accordance with the Religious Freedom Restoration Act. The district court refused to grant the request.

After the trial, Treiber moved for acquittal under Rule 29 of the Federal Rules of Criminal Procedure because of the court's exclusion of evidence of the religious purposes of the defendants possessing or using marijuana. Defendants filed motions to join, but on January 27, 1994, the Government filed a notice that it would not respond further to motions to join, apparently relying on the court's prior order that all defendants were deemed to have joined in motions by their codefendants. In ruling on the rule 29 motion, the district court analyzed an applied the Religious Freedom Restoration Act.

The district court first found that the challenged law substantially burdened the free exercise of the Rastafarian religion. Relying on several earlier appellate cases, the district court held, however, "that the government has an overriding interest in regulating marijuana." The district court quoted Leary v. United States. 383 F.2d 851, 861 (5th Cir. 1967), rev'd on other grounds, 395 U.S. 6 (1969). as follows: "It would be difficult to imagine the harm which would result if the criminal statutes against marijuana were nullified as to those who claim the right

to possess and traffic in this drug for religious purposes. For all practical purposes the anti-marijuana laws would be meaningless, and "enforcement impossible." The district court concluded that the government's in limine motion would have been granted even if the Religious Freedom Restoration Act had been the law of the land at the time.

Bauer, Meeks and Treiber appeal the district court's rulings as to the religious use of marijuana.

B. The Statute

The statute is new and so far has not been construed by any appellate court in a case involving the religious use of marijuana. We have applied the new law in a case where a school district's "no knives" policy and Cal. Penal Code § 626.10(a) led the school district to prohibit Sikh "children" from wearing seven-inch Kirpans (small swords) to school, as their faith required. Reversing the district court which had "misapprehended the law," we directed the court to protect the safety of the students and accommodate the religious requirements of the Cheema children. See Cheema v. Thompson, No. 94-16868, 1995 WL 608536, at *5 (9th Cir. Oct. 12, 1995) (Wiggins, J., dissenting) (quoting unpublished disposition). The ordinary canons of legislative interpretation require us to give attention to each of the provisions of the new statute in the context of federal criminal law on marijuana.

To begin with, Congress found that "the framers of the Constitution, recognized free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;" that laws which are neutral toward religion "may burden religious exercise as surely as laws intended to interfere with religious exercise;" that "governments should not substantially burden religious exercise without compelling

justification;" and that in Employment Division v. Smith, 484 U.S. 872 (1990), "the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion." 42 U.S.C. § 2000bb(a).

Congress then declared that the purposes of the Act were:

(1) to restore the compelling interest test as set forth in Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder, 406 U.S. 205 (1987) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and (2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

§ 2000bb(b). In the light of these findings and purposes, Congress provides as follows:

§2000bb-1. Free exercise of religion protected

(a) in general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) ExceptionGovernment may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person-(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.

(c)Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be

governed by general rules of standing under article III of the Constitution.

Congress also provided definitions. which read as follows:

(1) the term "government" includes a branch, department, agency. instrumentality, and official (or other person acting under color of law) of the United States. a State, or a subdivision of a state;

(2) the term "State" includes the District of Columbia,the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going foreword with the evidence and of persuasion; and

(4) the term "exercise of religion" means the exercise of religion under the First Amendment to the Constitution

§2000bb-2

We note the following specific features of the legislation:

First. While implicitly criticizing Smith the statute does not present itself as an interpretation of the Constitution overruling Smith; rather it consists of a command that must be followed as a matter of federal law. The command results in setting aside a common rationale for applying a statute to burden religious exercise, the rational that the statute has "general applicability" and was not intended to discriminate against, or otherwise inhibit, a religious practice. Second. The statute goes beyond the constitutional language that forbids the "prohibiting" of the free exercise of religion and uses the broader verb "burden"; a government may burden religion only on the terms set out by the new statute. Third. There is an unusual statutory incorporation of two decisions of the Supreme Court, to

which Congress refers as guides to the purpose of the statute. Fourth. There is one explicit reference to the Constitution in that what is meant by the exercise of religion is to be determined in terms of the First Amendment to the Constitution. Fifth. If there is a substantial burdening of a person's exercise of religion. the government must meet two tests. The government must "demonstrate" that the application of the burden to this particular person furthers "a compelling governmental interest." The Government must "demonstrate" that this application " is the least restrictive means of furthering that compelling governmental interest." Sixth. What is meant by "demonstrate" is explicitly defined in terms of the government's burdens of going forward with the evidence and of persuasion." Seventh. The statute explicitly includes the United States and its officers among those who must meet the two burdens imposed.

The effects of the Religious Freedom Restoration Act are widespread. The Act "legislatively overturned a number of recent Supreme Court decisions . . . by defining a statutory (if not a constitutional) right to the free exercise of religion." Werner v. McCotter, 49 F.3d 1476, 1479 (10th Cir. 1995) (holding that the standards set by Turner v. Safley, 482 U.S. 78 (1987), and O'Lone v. Estate of Shabazz, 482 U.S. 342 (1987), no longer apply in determining a state prisoner's right to the free exercise of his religion in prison): see also Bryant v. Gomez, 46 F.3d 948 (9th Cir. 1995) (applying the Act but finding no substantial burden on the prisoner's exercise of his religion).

The power of Congress to provide federal protection in addition to that accorded by the great guarantees of the Bill of Rights has been extended in other contexts. E.g., the Privacy Protection Act of 1980, 42 U.S.C.§§ 2000aa-

2000aa-12 (*restricting government* investigators seeking documents from the media and limiting the effect of Zurcher v. Stanford Daily, 436 U.S. 547 (1978)); the Church Audit Procedure Act of 1984, 26 U.S.C. § 7611 (strictly regulating "church tax inquiry" and "church tax examination" by the Internal Revenue Service); and the Exemption Act of 1988, 26 U.S.C. § 3127 (providing a special Social Security tax exemption for employers and their employees who are members of "a recognized religious sect" whose "established tenets" oppose participation in the Social Security Act program). The last exemption freed the Older Order Amish from the impact of United States v. Lee, 455 U.S. 252 (1982), which declined to recognize the Amish free exercise of religion claim on the ground that national compulsory uniformity was essential in the collection of the tax.

C. The application of the statute in this case.

The district court treated the existence of the marijuana laws as dispositive of the question whether the government had chosen the least restrictive means of preventing the sale and distribution of marijuana. The district court relied on a drug case decided before the enactment of the Religious Freedom Restoration Act . We do not exclude the possibility that the government may show that the least restrictive means of preventing the sale and distribution of marijuana is the universal enforcement of the marijuana laws. Under RFRA, however, the government had the obligation, first, to show that the application of the marijuana laws to these defendants was in furtherance of a compelling governmental interest and, second, to show that the application of these laws to these defendants was the least restrictive means of furthering that compelling governmental interest. The Act was relevant to the

counts of simple possession.

As to the counts relating to conspiracy to distribute, possession with intent to distribute, and money laundering, the religious freedom of the defendants was not invaded. Nothing before us suggests that Rastafarianism would require this conduct. These counts stand.

As to the three counts on which the appellants were convicted of simple possession, the exclusion of the religious defense was in error.

Treiber, Meeks and Bauer may be retried on the possession counts. The government should be free to cross-examine them on whether they, in fact, are Rastafarians and to introduce evidence negating their asserted claims. It is not enough in order to enjoy the protections of the Religious Freedom Restoration Act to claim the name of a religion as a protective cloak. Neither the government nor the court has to accept the defendants' mere say-so. The court may conduct a preliminary hearing in which the defendants will have the obligation of showing that they are in fact Rastafarians and that the use of marijuana is a part of the religious practice of Rastafarians.

Tentative Ruling of the SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES Case No. BS032384
BRUNSON v. DMV Petition for Writ of Mandate:
The Honorable Diane Wayne Presiding Judge of The Superior Court not a duplicate for information purpose only

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(Duplicate Copy)
social sec

Tentative Ruling

BRUNSON v. DMV

Petition for Writ of Mandate: Grant

The petition for writ of mandate is granted pursuant to CCP § 1085. Petitioners have demonstrated that respondent's action is arbitrary, capricious, entirely lacking in evidentiary support, and/or not in conformity with law. Stauffer Chemical Co. v. Calif. State Air Resources Bd., (1982) 128 Cal.App.3d 789.

Mandate will not issue where there is no showing that a law specifically requires a ministerial officer to perform the act in question. National Auto. & Cas. Ins. Co. v. Garrison (1948) 173 Cal.App.2d 415.

Mandamus is issued "to compel the performance of an act which the law specially enjoins . . . ." CCP § 1085. Petitioner must demonstrate both a clear, present and usually ministerial duty upon the part of the respondent, and a clear, present and beneficial right in the petitioner to the performance of that duty. Loder v. Municipal Court (1976) 17 Cal.App.3d 859, 863; Pacific Bell v. Calif. State & Consumer Services Agency (1990) 225

Cal.App.3d at 107, 118.

"Mandamus does not lie to control the exercise of discretion, unless under the facts, discretion can be exercised in only one way." Pacific Bell, supra, 225 Cal.App.3d at 118 (citing Robbins v. Superior Court (1985) 38 Cal.App.3d 199, 205; Anderson v. Phillips (1975) 13 Cal.App.3d 733, 736-737).

In the instant case, petitioners seek to enjoin respondent from refusing to (1) accept petitioners' applications for a driver's license and/or identification card, (2) issue to petitioners a driver's license or renewal of a driver's license, (3) accept petitioners' registrations and/or renewal of registration of their motor vehicles, and (4) issue to petitioners registrations and/or renewals of registration of their motor vehicles, on the ground that petitioners refuse to acquire and/or submit their social security numbers to respondent.

The court finds that respondent may not require petitioners to provide their social security numbers to respondent for purposes of obtaining drivers' licenses and identification cards. [1]

Before strict scrutiny may be applied, petitioners must first establish that their beliefs are both religious in nature and sincerely held. Mullaney v. Woods (1979) 97 Cal.App.3d 710, 722 (citing Wisconsin v. Yoder (1972) 406 U.S. 205, 215-216).[2]

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[1]Because of recent amendments, a social security number is no longer in order to obtain a vehicle registration. As such, this portion of the petition is moot.

[2]Respondents also cite to Smith v. Fair Employment & Housing Com., (1994) 25 Cal.App.4th 251. However, this

Through their verified petition, petitioners have demonstrated that their religious beliefs dictate that the acquisition and use of social security numbers or other numbering systems endanger their souls and subject them to eternal damnation.

Accordingly, the court must then determine whether or not the state has met its heavy burden of providing that there exists a compelling state interest which overrides any imposition on petitioners' First Amendment rights and which cannot be accomplished by means of another less restrictive method. Mullaney, supra, 97 Cal.App.3d at 730; Callahan v. Woods (9th Cir. 1984) 736 F.2d 1269, 1272.

"If the compelling state goal can be accomplished despite the exemption of a particular individual, then a regulation which denies an exemption is not the least restrictive means of further the state interest. . . [The] question [is] whether the government has a compelling interest in not exempting a religious individual from a particular regulation. [citation.]"

Callahan, supra, 736 F.2d at 1272-1273.

In 1991, AB 1297 amended portions of the Vehicle Code. To require that an applicant for a driver's license provide his or her social security number. See Vehicle Code § 12800. The inclusion of a social security number would aid in collecting unpaid fines and the person owing the fine would be denied a driver's license. Vehicle Code § 12808.1. That same year, SB 395 was enacted in order

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court's computerized legal research shows that the case is not citable as the California Supreme Court granted review on 9/8/94.

to assist agencies in locating parents for purpose of child support and benefit programs. Vehicle Code § 1653.5.

The goals of enforcing child support orders and obtaining reimbursement for the state for welfare grants are compelling interests. See Mullaney, supra. However, the analysis does not end here.

In providing that the SSN requirement is the least restrictive means of achieving the compelling state interest, the state must also demonstrate "the potential cost, financial or otherwise, of exempting one person from the SSN requirement." Callahan, supra, 736 F.2d at 1274; . The declaration of St. George, however, does not contain specific facts to make this showing nor does the declaration show that "the exemption of one person from the number requirement . . . mandate the development of an entire non-numerical system." Id.

The facts presented by respondent do not "present an administrative problem of such magnitude, or . . . afford the exempted class so great a competitive advantage, that such a requirement would have rendered the entire scheme unworkable." Sherber v. Verner (1963) 374 U.S. 398, 408-409. It is hard to imagine that the number of persons asserting the rights of petioners herein will be so overwhelming that the DMV will not be able to easily adjust to their requests. The administrative burden is not imposing.

MUNICIPAL COURT OF THE COUNTY OF
LOS ANGELES, STATE OF CALIFORNIA,
SAN FERNANDO BRANCH

PEOPLE OF THE STATE OF CALIFORNIA Plaintiff, vs. James Brunson,Sui Juris, Defendant.	Case No. : 94 F 04714 MOTION TO DISMISS INFORMATION OR IN THE ALTERNATIVE, MOTION IN LIMINE TO EXCLUDE EVIDENCE OR IN THE ALTERNATIVE, MOTION FOR JUDGMENT IN FAVOR OF DEFENDANT Date: September 20,1994 Time: 11:00 a.m. Division: 137

To: THE MUNICIPAL COURT OF THE COUNTY OF LOS ANGLES, CITY ATTORNEY AND TO THE RESPECTIVE DEPUTY CITY ATTORNEY.

Please take **notice** that on the date of **September 20, 1994**, at, **11:00 a.m.** , or as soon thereafter as the matter may be heard, in **Division 137,** of the above-entitled Municipal Court, located at **919 First Street, San Fernando, California,** defendant, **James Brunson, Sui Juris,** in propria persona, will move this Court for an order: (1) dismissing the complaint and\or information or in the alternative, (2) excluding all evidence and testimony at trial in this matter, or (3) for judgment in favor of defendant in this matter and (4) for an order that

this court order the **Department of Motor Vehicles** to issue this defendant a **California Driver's License** without defendant providing said department with a social security number.

This Motion be made on the grounds **(1)** the statutes and laws which defendant has been accused violate, on their face or in their enforcement or application the **United States Constitution and Amendments thereto** and the **Constitution of the State of California** **(2)** all evidence seized in this matter in the enforcement of the unconstitutionally invalid statutes must be suppressed and **(3)** the statutes invidiously discriminates against defendant and, **(4)** the statutes as applied deny defendant his right to practice his religious beliefs in violation of the **United States Constitution and the Constitution and Amendments thereto** and the **Constitution of the State of California** and **(5)** the evidence in the evidence in this matter is not competent evidence.

This motion will be made on the memorandum of points and authorities served and filed herewith, on all the papers and pleadings on file, and on such oral and documentary evidence as may be presented at the hearing of the motion.

DATED: September 20, 1994

Respectfully submitted,

By"s/_____"
James Brunson, Sui Juris In Propria Persona

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS ETC.

In this particular matter. defendant James Brunson. Sui Juris, due to his religious doctrine. dogma and beliefs does not possess, hold or maintain a **social security number,** only issued by a certain department of the **federal government** of the **United States of America.**

The **Department of Motor Vehicles** of the **State of California** demands. directs and commands all California State residents to acquire a **social security number,** or be denied the issuance of a **California Driver's License.**

The **California Vehicle Code, Section 12500** requires that all persons driving in the State of California possess a driver's license. Defendant James Brunson, Sui Juris, upon application for such a driver's license was denied and continues to be denied a driver's license.

The mandate of the Department of Motor Vehicles invidiously discriminates against defendant, by requiring him to acquire certain federal documents and\or demanding that he register with a federal agency before a California Driver's License will be issued to him.

The mandate of the Department of Motor Vehicles also violates the rights of defendant prescribed under the **First and Fourteenth Amendments** of the **United States Constitution,** by requiring him, to commit acts incongruent with his religious doctrine, principles and practices by demanding that he acquire certain federal documents and\or demanding that he register with a federal agency in order to acquire a California Driver's License.

Under the circumstances, it is clear that this court should dismiss this complaint or information against this defendant and order that the **DEPARTMENT OF MOTOR VEHICLES** issue a driver's license to

defendant **without first providing to them a SOCIAL SECURITY NUMBER issued by the United States Government.**

In the alternative. all of the evidence should be excluded and suppressed due to the unconstitutional application of the subject statutes.

Penal Code Section 1538.5 states:

MOTION TO RETURN PROPERTY OR SUPPRESS EVIDENCE

(A) **Grounds.** A defendant may move For the return of property or to suppress as evidence any tangible or intangible Thing obtained as a result of a search or seizure on either of the following Grounds:

(1) The search or seizure without a warrant was unreasonable.

(2) The search or seizure with a warrant was unreasonable because (i) the warrant is insufficient on its face; (ii) the property of evidence obtained is not that described in the warrant; (iii) there was not probable cause for the issuance of the warrant; (iv) The method of execution of the warrant violated federal or state constitutional standards; (v) there was any other violation of federal or state constitutional standards.

All persons have a constitutional right to be secure in their persons, houses, papers, and effects against unreasonable search and seizures. (See **California vs. Ciraolo [1986]** 476 U.S. 207, and **Katz vs. United States [1967]** 389 U.S. 347).

United states Constitution, Amendment IV.

"The right of the people to be secure in there Persons, houses, papers, and effects, against unreasonable seizures and searches, may not be violated . . .".

All persons have a constitutional right to be secure in their persons. houses. papers. and effects against unreasonable searches and seizures. (**See California vs. Ciraolo [1986]** 476 U.S. 207. and **Katz vs. United States [1967]** 389 U.S. 347).

United States Constitution, Amendment IV.

"The right of the people to be secure in there Persons, houses. papers. and effects, against unreasonable seizures and searches. may not be violated . . .".

Consequently. where any evidence is obtained from an illegal detention or arrest, such information, and any other "fruits" obtained thereby. must be suppressed due to the taint created by the pervious illegal conduct. (**Wong Sun vs. United States** [1963] 371 U.S. 471, **Jones vs. United States** [1958] 357 U.S. 493).

Again all "fruits" obtained by and through the improper and over broad search **PREDICATED UPON THE ENFORCEMENT OF THE CONSTITUTIONALLY PROHIBITED STATUTES** would be subject to suppression by the court. (**Wong Sun vs. United States** [1963] 357 U.S. 493).

Under the present circumstances it is appropriate that the information and complaint be dismissed and the evidence seized in be excluded and\or suppressed. For all of the foregoing reasons, defendant **James Brunson, Sui Juris,** respectfully requests that the court act as prayed herein.

DATED: September 20. 1994

Respectfully submitted,

BY"s_____

James Brunson, Sui Juris

IN THE MUNICIPAL COURT OF LOS ANGELES
JUDICIAL DISTRICT COUNTY OF LOS ANGELES.
STATE OF CALIFORNIA

HON. JOHN C. GUNN, JUDGE DIVISION NO. 137

THE PEOPLE OF THE STATE OF CALIFORNIA	)	No. 94F04714
PLAINTIFF,	)	APPEAL
VS.	)	
James C. Brunson	)	
DEFENDANT(S)	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
SEPTEMBER 19, 20, 21, 1994

JURY TRIAL

FOR THE PLAINTIFF: CARMIN HAWKINS

DEPUTY CITY
ATTORNEY

FOR THE DEFENDANT: IN PROPRIA PERSONA

JOANNE ANFINSON
OFFICIAL REPORTER
C.S.R. No. 4754

COPY

PAGE 22 LINE 27

MR. BRUNSON: I DO NOT HAVE A SOCIAL SECURITY NUMBER BECAUSE OF MY RELIGION.

THE COURT: WELL, IF YOU ARE CLAIMING SOME RELIGIOUS VIEWS KEEP YOU FROM HAVING A LICENSE AND A REGISTRATION I WOULD BE RULING THAT'S IRRELEVANT, THAT PEOPLE ARE REQUIRED TO GET A LICENSE OR REGISTRATION WHATEVER THEIR RELIGIOUS VIEWS AND I WOULD BE TELLING THE JURY THAT THAT'S NOT A--

MR. BRUNSON: I HAVE NO PROBLEM WITH THE LICENSE. I DO NOT HAVE A SOCIAL SECURITY NUMBER .

THE COURT: DOES THAT KEEP YOU FROM GETTING A REGISTRATION FOR A CAR?

MR. BRUNSON: IT ABSOLUTELY DOES.

THE COURT: GEE, I HAVE NEVER DEALT WITH THAT PROBLEM. I DON'T KNOW.

MR.BRUNSON: THERE ARE SOME OF US THAT HAVE SOME PROBLEMS OUT THERE AND WE DON'T, YOU KNOW, WE ARE TRYING TO FIGURE OUT HOW TO SOLVE THEM, BUT WE CAN'T GET THOSE PEOPLE IN SACRAMENTO TO COME UP WITH SOMETHING THAT WE CAN WORK WITH.

THE COURT: I DON'T KNOW. MAYBE THERE IS NO GOOD ANSWER TO IT.

I WISH I HAD KNOWN ABOUT THIS SOONER, I WOULD HAVE TRIED TO EXPLORE IT MORE. BUT, IT'S NOT AN, I DON'T BELIEVE, IN FACT, I AM SURE IT'S NOT LEGALLY A DEFENSE.

YOU PROBABLY DISCUSSED THIS MORE THAN JUST THE LOCAL LEVELS. HAVE YOU, WITH THE D.M.V.?

MR. BRUNSON: YES. YES. I HAVE.

THE COURT: I AM PROBABLY WASTING MY TIME.

MR. BRUNSON: I HAD -- MATTER OF FACT, WE SUBPOENAED A FRIEND OF MINE WHO HAD THE SAME, A SIMILAR SITUATION AND WE UBPOENAED A LADY FROM THE LOCAL D.M.V. WE COULD NOT GET ANYBODY FROM SACRAMENTO TO ANSWER.

THE COURT: I MAY BE WASTING MY TIME, BUT I AM GOING TO TRY GIVING THEM A CALL UP IN SACRAMENTO.

MS. HAWKINS: YOUR HONOR, CAN I STEP OUT FOR JUST A MOMENT WHILE YOU MAKE YOUR CALL? I AM JUST GOING TO BE RIGHT NEXT DOOR.

THE COURT: SURE. I WON'T BE SAYING ANYTHING TO MR. BRUNSON ABOUT THE CASE.

MS. HAWKINS: THAT'S FINE I HAVE A COURT REPORTER.

MR. BRUNSON: I WILL BE JUST BE ENJOYING HIS LIBRARY.

THE COURT: I THINK IT'S PROPER TO ASK YOU THIS. I AM SPEAKING WITH THE CITY ATTORNEY ABSENT, BUT SHE ASKED TO STEP OUT, BUT I THINK IT'S A FAIR QUESTION, SINCE I AM ON THE PHONE TO SACRAMENTO.

ARE YOU ALSO CLAIMING THAT, I MEAN ARE YOU CLAIMING YOU DON'T HAVE TO HAVE A SOCIAL SECURITY NUMBER TO GET A LICENSE?

MR. BRUNSON: I AM CLAIMING THAT THEY SAY I HAVE TO HAVE ONE TO GET A LICENSE.

THE COURT: OH, I AM SORRY. I THOUGHT YOU SAID FOR REGISTRATION THAT YOU HAD TO HAVE IT: I MISUNDERSTOOD YOU.

MR. BRUNSON: NO.

THE COURT: YOU HAVE TO HAVE IT FOR BOTH REGISTRATION AND A LICENSE?

MR. BRUNSON: BOTH REGISTRATION AND LICENSE, I UNDERSTAND.

THE COURT: OH, FOR BOTH THINGS, OKAY.

MR. BRUNSON: MY LAST ATTEMPT WAS TO GET A LICENSE.

THE COURT: BUT, IT REQUIRES A SOCIAL SECURITY NUMBER, RIGHT?

MR. BRUNSON: YES.

THE COURT: OKAY. YOU DON'T HAVE TO TAKE DOWN THE CONVERSATION.

THE REPORTER: NO, I WASN'T.

(PHONE CONVERSATION)

END PAGE 25 LINE 14

PAGE 25 LINE 28

THE COURT: I WOULD THINK THE CHANCES SOMEBODY WOULD FALSELY CLAIM IT AS A BASIS FOR TRYING TO EVADE THE LAW WOULD BE PRETTY SLIM. BUT, ANYWAY, WE WILL SEE WHAT THE DEPARTMENT HAS TO SAY. IF I CAN GET SOMEBODY WHO SPEAKS FOR THEM.
IF YOU HAVE EVER BEEN THROUGH THIS ROUTINE YOU KNOW WHAT I MEAN.

MR. BRUNSON: THE BIGGER IT GETS, THE TOUGHER IT GETS.

THE COURT: LET ME ASK YOU, WHILE I AM WAITING, DO YOU KNOW OF ANYBODY THAT'S EVER MADE A COURT TEST OF THIS POSSIBLE

CONFLICT BETWEEN THE FREEDOM OF RELIGION AND THE REQUIREMENT?

MR. BRUNSON: I MAY BE ON THE WAY WITH ONE RIGHT NOW. I DON'T KNOW OF ANYONE.

THE COURT: YOU KNOW WITH ALL THIS WRITTEN MATERIAL YOU PUT OUT, YOU HAVEN'T SAID A WORD ABOUT THIS ASPECT OF THE CASE.

MR. BRUNSON: I--

THE COURT: SORRY, GO AHEAD. APPARENTLY IT WAS A FALSE RING.

MR. BRUNSON: MY RESEARCH HAS MOSTLY BEEN THE OTHER DIRECTION. MY RESEARCH HAS MOSTLY BEEN IN CASES ON TRAVEL BECAUSE I KNOW I AM BAIT OUT THERE; I KNOW I AM BAIT. BUT, I AM KIND OF IN BETWEEN A ROCK.

THE COURT: FROM LACK OF REGISTRATION?

MR. BRUNSON: YEAH.

THE COURT: ACTUALLY THEY DON"T. WELL, I, PERHAPS, SHOULDN"T SAY THAT THEY DON"T WRITE EVERYBODY THEY SEE. BUT EVERY NOW AND THEN THEY DO HAVE DRIVES ON GETTING REGISTRATION, UNFORTUNATELY.

THIS THING IS JUST LIKE IT"S DEAD, SO I AM GOING TO TRY AGAIN. WHOOPS, THERE IS A SIGN, A BEEP ON THE LINE

END PAGE 27 LINE 7 **(PHONE CONVERSATION)**

PAGE 27 LINE 11

THE COURT: OBVIOUSLY THE ULTIMATE ANSWER IS NOT AVAIBLE. THE ATTORNEY.

MR. BRUNSON: THE LAST ONE WAS AN ATTORNEY.

THE COURT: A PARALEGAL; SHE WAS TRYING TO FIND THE ATTORNEY. BUT HE, THE PERSON ISN'T AVAILABLE.

IT IS ON APPEAL. THE ISSUE. I DON'T KNOW WHETHER IT'S ON A RELIGIOUS GROUND, BUT WHETHER YOU CAN REQUIRE GIVING A SOCIAL SECURITY NUMBER. THERE IS A CASE SOMEWHERE.

HAVE YOU HEARD OF IT?

MR. BRUNSON: NO. I HAVE NOT.

MS. HAWKINS: THAT'S PROBABLY, IS CHALLENGING THE IMMIGRATION ISSUE. NOW WHAT HAPPENS IT'S PART OF THE EXCLUDING THE ILLEGAL IMMIGRANT, BUT, AGAIN, THE OTHER ISSUE IS THAT THE LAW IS THAT YOU CANNOT DRIVE WITHOUT HAVING A LICENSE.

THE COURT: THE ISSUE HERE IS WHETHER RELIGIOUS BELIEF WOULD BE A DEFENSE.

OBVIOUSLY. I HAVE NOT RESEARCHED THIS IN LENGTH, BUT. CERTAINLY, THERE ARE MANY THINGS THAT CAN BE REQUIRED THAT MAY BE OPPOSED TO SOMEBODY'S RELIGIOUS VIEWS. IT IS SOMETHING THAT IS VIEWED WITH GREAT CAUTION BEFORE YOU ORDER SOMEBODY TO DO SOMETHING THAT'S CONTRARY TO THEIR RELIGIOUS VIEWS. SINCE YOU CAN REQUIRE, I GUESS, INOCULATION AGAINST SMALLPOX AND THING LIKE THAT, I DON'T KNOW IF A LICENSE IS THE EQUIVALENT, BUT IT'S IN THE PUBLIC INTEREST.

MS. HAWKINS: A LICENSE IS ONLY REQUIRED TO OPERATE A CAR. YOU CAN JUST, YOU CAN CHOOSE NOT TO GET A LICENSE.

THE COURT: MY POSITION IS, FRANKLY, WITHOUT RESEARCHING IN DEPTH, THAT IT

CAN BE REQUIRED AND THAT WOULD BE MY POSITION, THAT YOU CANNOT GO INTO THE ISSUE OF YOUR RELIGIOUS VIEWS AND UNLESS THE ISSUE OF YOUR RELIGIOUS VIEWS WOULD BEAR ON IT, THE CASE, SOME OTHER WAY, I WON'T BE ASKING THEM ABOUT HOW THEY WOULD FEEL ABOUT YOU BEING INVOLVED WITH RELIGION, IN ANY WAY, BECAUSE IT'S NOT SOMETHING THAT'S APPROPRIATE TO GO INTO.

END PAGE 28 LINE 20

PAGE 29 LINE 22

THE COURT: WHAT ENTERS MY MIND, AND I AM SAYING IT AFTER JUST SAYING I WOULDN'T, WHAT ISSUE ARE WE LITIGATING, THEN, IF THE ISSUE IS WHETHER YOU HAD A LICENSE OR REGISTRATION? I GATHER YOU ARE NOT DENYING YOU HAVE THEM, IN FACT -- YOU DIDN'T HAVE THEM, RATHER -- IN FACT, YOUR POSITION IS THAT YOU COULDN'T PROPERLY GET ONE AT ALL?

MR. BRUNSON: I LIVE 87 MILES FROM WHERE I WORK AND I HAVE, SOUTHERN CALIFORNIA, WE ARE IN A SITUATION THAT IS A LITTLE BIT UNIQUE. SOMEONE SAID YOU CAN WALK TO WORK. NO. THAT'S NOT SENSIBLE.

THE COURT: I DON'T THINK IT'S A PROPER ISSUE FOR THE JURY.

MR. BRUNSON: I WOULD LIKE IF I COULD WITH YOU OR SOMEONE TO TRACK THAT CASE.

THE COURT: I ASKED THEM. THEY SAID THEY WOULD CALL ME, BUT THEY DON'T KNOW WHEN THEY WOULD CALL ME.

MR. BRUNSON: IF YOU DON'T MIND, IF I

COULD GET BACK TO YOU LATER?

THE COURT: YEAH. I AM CURIOUS.

MR. BRUNSON: I WOULD LIKE TO TRACK THAT.

MS. HAWKINS: YOUR HONOR, I WOULD LIKE TO -- WE ARE NOT GOING TO BE ABLE TO GET TO TESTIMONY TODAY -- I WOULD LIKE TO RELEASE MY OFFICER UNTIL TOMORROW.

THE COURT: WELL, I DON'T KNOW. IT DEPENDS HOW MANY PEREMPTORIES THE TWO OF YOU USE. YOU CAN RELEASE HIM; IT'S CLOSE ENOUGH TO CLOSING TIME, ANYWAY. WE ARE GOING TO TAKE A LITTLE BREAK, ANYWAY.

THE REPORTER: I JUST NEED TWO MINUTES TO GO TO THE BATHROOM.

THE COURT: I WONDER IF THERE IS ANY WAY WE CAN AVOID A TRIAL IF THERE IS NOTHING REALLY IN DISPUTE?

AND I AM NOT TRYING TO TAKE AWAY FROM YOU ANY POSSIBLE ISSUE YOU COULD RAISE, PROBABLY, AT A TRIAL. I DON'T WANT TO SAY ANYTHING THAT ANYBODY COULD EVER SAY I PERSUADED YOU TO GIVE UP THE TRIAL WHEN YOU SHOULDN'T HAVE, BUT IF YOU START RAISING THE ISSUE OF YOUR RELIGIOUS BELIEFS, I WILL BE CUTTING YOU OFF FROM DOING THAT. I DON'T KNOW WHETHER THAT WOULD BE FROM YOUR POINT OF VIEW GROUND FOR APPEAL OR NOT. I AM CERTAINLY NOT INVITING YOU TO APPEAL, ANYWAY, IT WOULD BE ON THE RECORD THAT YOU WANT TO GO INTO THAT. BUT, ANYWAY --

MR. BRUNSON: I THINK THAT I HAVE A FEELING THAT YOU UNDERSTAND WHERE I AM

IN THE PROBLEM HERE. I AM IN BETWEEN AND DON'T KNOW WHAT TO DO. I TRIED TO WORK WITH THE AGENCIES AND IF YOU YOU GO TO THE LOCAL LEVEL, YOU GO UP THERE, YOU ARE TALKING TO A CLERK, THEN YOU END UP AT THE MANAGER AND THEY SAID: UNDER NO CIRCUMSTANCES COULD YOU HELP ME FIND A WAY. WE DON'T DO THAT.

THE COURT: YOU MAY BE DEAD WRONG. I DON'T KNOW. I AM TAKING THE POSITION SINCE WE MUST GO AHEAD THAT YOU ARE.

MR. BRUNSON: I APPRECIATE WHAT, THE EFFORT THAT YOU HAVE DONE.

THE COURT: YEAH.

MR. BRUNSON: BECAUSE IT'S SOMETHING THAT I AM NOT ALONE.

THE COURT: I DON'T KNOW.

MR. BRUNSON: AND ITS SOMETHING THAT NEEDS TO BE ADDRESSED.

THE COURT: IF YOU WANT TO PUT IT ON THE RECORD THAT YOU ADMIT THAT YOU DO NOT, DID NOT HAVE A LICENSE ON THIS OCCASION AND DID NOT HAVE REGISTRATION AND THAT YOU WOULD LIKE TO SHOW THAT YOU HAVE RELIGIOUS REASONS AND I WOULD WANT YOU TO SPELL THEM OUT FOR IT AND THEN YOU WANT TO SUBMIT THE CASE TO ME, I WOULD THEN FIND YOU GUILTY ON IT AND YOU COULD, SOUNDS SILLY, I AM NOT REALLY TRYING TO SET UP AN APPEAL, BUT YOU, OBVIOUSLY, FEEL STRONGLY ABOUT THE MATTER.

AND ALSO, I WOULD SAY ON THE RECORD THAT THE DEFENSE YOU WANTED TO OFFER TO ME ABOUT THE RELIGION WOULD NOT BE A

DEFENSE TO THE ISSUE. I AM TRYING TO THINK IF IT WOULD CREATE ANY PROBLEMS.

MS. HAWKINS: IF WE DID IT AS A COURT TRIAL. WE COULD ADD STIPULATIONS AS TO WHAT THE FACTS ARE. PRESENT HIS DEFENSE. WE GO ALONG WITH WHAT THE THE DEFENSE IS.

THE COURT: OH I KNOW. I WOULD REQUIRE YOU TO GET A LICENSE UNDER THE THREAT OF GOING TO JAIL IF YOU DON'T GET A LICENSE. THAT WAY IT SHOULD BE I WANT TO FORCE YOU TO GET A LICENSE BECAUSE I BELIEVE IT'S PROPER TO DO SO. I THINK IT'S ONLY FAIR TO TELL YOU, TO TELL YOU THAT. THAT I WOULD SAY THAT YOU ARE ON PROBATION AND ONE OF THE CONDITIONS IS EITHER GO TO JAIL OR ELSE GET A LICENSE. THAT WOULD, CERTAINLY, BE AN APPEALABLE ISSUE, BUT THEN IF YOU LOST ON THE APPEAL, THEN YOU WOULD HAVE ALREADY BEEN FOUND GUILTY AND YOU WILL BE ON PROBATION AND I WOULD PROBABLY, WELL I WOULD GO AHEAD AND TRY TO COERCE YOU TO DO WHAT I BELIEVE IS PROPER, GET A LICENSE, UNLESS YOU ARE GOING TO SWEAR OFF DRIVING. BUT EVEN THEN --

MR. BRUNSON: I CAN'T.

THE COURT: -- I DON'T THINK I WANT TO DO THAT.

MR. BRUNSON: ALSO SOMETHING THERE THAT YOU CAN'T, THERE IS ONLY ONE HIGHEST, THERE IS ONLY ONE HIGHEST MASTER.

THE COURT: I REALLY DON'T TO GET INTO THAT BECAUSE MY VIEW OF RELIGION IS NOT

WHAT'S GOING TO SETTLE THIS. IT'S WHAT THE LAW IS ON THE SUBJECT.

MR. BRUNSON: CHRIST THAT --

THE COURT: THERE IS SOMETHING ABOUT, QUOTE, RENDER UNTO CAESAR THOSE THINGS WHICH ARE CAESAR'S, UNTO GOD THOSE THINGS THAT ARE GOD'S; THAT'S A PARAPHRASE.

MR. BRUNSON: IF YOU READ THE NEXT PHRASE AFTER THAT.

THE COURT: I HAVEN'T. WHAT IS IT?

MR. BRUNSON: IT BASICALLY SAYS "YOU, WHO IS THE JUDGE? WHO IS THE JUDGE? AM I TO JUDGE YOU FOR WHAT YOU DO?"

THE COURT: WELL, I DON'T KNOW.

DO YOU?

MR. BRUNSON: I AM NOT A SCHOLAR OF THE BIBLE.

THE COURT: YOU DON'T NEED TO ANSWER THIS AT ALL.

DO YOU HAPPEN TO BELONG TO A GROUP IN WHICH A CONSIDERABLE NUMBER OF PEOPLE HAVE THIS VIEW OF, A RELIGIOUS GROUP?

MR. BRUNSON: NOT AN ORGANIZED RELIGIOUS GROUP. I HAVE FRIENDS; I HAVE ACQUAINTANCES.

THE COURT: WHAT I AM LEADING UP TO: DO ANY OF THEM HAVE A DIFFERING OPINION AS TO WHAT THE BIBLE WOULD CALL FOR OR RELIGIOUS VIEWS WOULD CALL FOR THAT HAVE EXACTLY THE SAME VIEWS AS YOU HAVE THAT DIFFER ON THE PROPRIETY OF GIVING A SOCIAL SECURITY NUMBER?

MR. BRUNSON: I HAVE NUMEROUS FRIENDS THAT DO NOT HAVE A SOCIAL

SECURITY NUMBER AND CANNOT GIVE IT BECAUSE THEIR RELIGIOUS BELIEF WILL NOT ALLOW THEM TO HAVE ONE.

THE COURT: DO YOU HAVE ANY FRIENDS THAT HAVE OTHERWISE ALMOST IDENTICAL RELIGIOUS VIEWS AS YOURS BUT DO GIVE A SOCIAL SECURITY NUMBER?

MR. BRUNSON: NO.

THE COURT: WHAT I WAS LEADING UP TO: HOW DO THEY RATIONALIZE DOING IT? BUT, THE ANSWER IF YOU DON'T KNOW ANYBODY IN THAT POSITION.

I AM TRYING TO COME UP WITH --

MR. BRUNSON: I KNOW LOTS OF PEOPLE, MATTER OF FACT, MOST OF THE PEOPLE I ASSOCIATE HAVE SOCIAL SECURITY.

THE COURT: OF COURSE, BUT DO THEY HAVE THE SAME RELIGIOUS VIEWS THAT YOU DO AND STILL MANAGE TO RECONCILE IT, GIVING THE NUMBER, IS WHAT I AM LOOKING FOR?

MR. BRUNSON: NO.

THE COURT: HOPING THERE MIGHT BE SOME WAY YOU COULD RECONCILE IT.

WELL, AS I SAY, I AM NOT GOING TO TRY TO PRACTICE RELIGION IN ADDITION TO LAW.

MR. BRUNSON: I UNDERSTAND THAT.

THE COURT: IS THERE SOME PARTICULAR PORTION OF THE BIBLE, SOME PARTICULAR PASSAGE, OR IS IT JUST THE GENERAL VIEW?

MR. BRUNSON: THE THE PASSAGE THAT YOU BROUGHT UP, THAT YOU BROUGHT UP IS IN REVELATIONS. AND, LIKE I SAID, I AM NOT A SCHOLAR OF THE BIBLE. I READ IT SOMETIMES AND I REMEMBER BECAUSE THAT'S ONE THAT

IS OFTEN QUOTED AND THE PEOPLE A LOT OF TIMES DON'T READ THE NEXT ONE RIGHT AFTER IT.

THE COURT: APPARENTLY I AM GUILTY OF IT.

ANYWAY, YOU WANTED TO TAKE A BREAK, DIDN'T YOU?

THE REPORTER: YES.

END PAGE 35 LINE 12

PAGE 39 LINE 6

THE COURT: WHAT I WAS GOING TO EXPLORE WITH YOU IS OTHER WAYS OF GETTING AROUND RELIGIOUS VIEWS.

DO YOU HAVE THE FEELING, SIMILAR FEELING ABOUT WORKING ON THE SABBATH, BY ANY CHANCE?

MR. BRUNSON: MY SABBATH IS MY SABBATH; I MAKE MY SABBATH.

THE COURT: OKAY.

NOT THE LOCAL COMMUNITIES', YEAH?

MR. BRUNSON: I DON'T FOLLOW IT.

THE COURT: IF I WERE TO FIND YOU GUILTY AND ORDER YOU TO GET A LICENSE WOULD THAT, THEN, UNDER YOUR RELIGIOUS VIEWS PERMIT YOU TO GET A LICENSE BECAUSE YOU ARE BEING FORCED TO GET IT BY THE COURT?

MR. BRUNSON: I CANNOT, I CANNOT GO AGAINST MY RELIGIOUS CONVICTIONS ON THE SOCIAL SECURITY. I DON'T HAVE A SOCIAL SECURITY NUMBER TO USE.

THE COURT: OKAY.

MR. BRUNSON: I DON'T HAVE A PROBLEM WITH THE LICENSE.

THE COURT: I UNDERSTAND.

MR. BRUNSON: BUT THE --

THE COURT: BUT THE TWO ARE LINKED TOGETHER IN YOUR CASE.

BUT, THERE ARE SITUATIONS, I BELIEVE, WHERE PEOPLE OF VARIOUS RELIGIOUS GROUPS WHO HAD STRONG RELIGIOUS VIEWS, BUT WHEN FORCED TO DO SOMETHING THEIR RELIGION ALLOWS THEM TO DO THAT BECAUSE THEY DID THE BEST THEY COULD TO PREVENT DOING IT. BUT THEY WERE PUT IN A POSITION WHERE THEY HAD TO OR ELSE SUFFER CONSEQUENCES THAT WERE QUITE ONEROUS.

MR. BRUNSON: THE CONSEQUENCES FROM MY LORD WOULD BE AN, OF GREATER CONSEQUENCE.

THE COURT: ALL RIGHT.

BUT, IN AN EXTREME CASE YOU RATHER GO TO JAIL THAN GIVE IT IN AND GET A LICENSE?

MR. BRUNSON: IF IT CAME TO THAT, I HAVE NO INTENTION OF EVER GOING TO JAIL BECAUSE I DON'T THINK, I DON'T -- I DO THINGS IN MY COMMUNITY -- I HELP PEOPLE, I GO OUT OF MY WAY TO DO THINGS FOR THE COMMUNITY -- I DON'T TAKE FROM IT.

THE COURT: I WOULD BE REQUIRING YOU TO GO TO JAIL SIMPLY TO COERCE YOU TO GET A LICENSE, OBVIOUSLY, THAT'S WHAT I TOLD YOU EARLIER. IF YOU GOT IN THAT POSITION WOULD YOU THEN GO TO JAIL?

MR. BRUNSON: THAT TYPE OF COERCION MY LORD DIED ON THE CROSS. HE WAS BEING COERCED.

THE COURT: WELL, I DON'T MEAN TO MAKE LIGHT OF YOUR VIEWS, BUT I HOPE YOU ARE

NOT COMPARING THE TWO, YOUR GOING TO JAIL OVER A LICENCE AND THE CENTRAL THEME OF CHRISTIAN RELIGION.

MR. BRUNSON: I WOULD HOPE THAT GOING TO JAIL WOULDN'T BE THE SAME PUNISHMENT THAT HE SUFFERED. AND, BUT IT'S THE, IN THAT SENSE; IT'S THE SAME ISSUE.

THE COURT: I UNDERSTAND THE ANALOGY YOU ARE DRAWING.

WELL, OKAY, I WAS JUST EXPLORING VARIOUS THINGS.

END PAGE 41 LINE 6

PAGE 45 LINE 4

MS. HAWKINS: I AM WORRIED ABOUT JEOPARDY, FROM MY POSITION FROM BEING ABLE TO CONTINUE IT AT THIS POINT.

BUT, IF IT, HIS ISSUE IS ALSO ONE OF APPEALABILITY, THAT WE CAN LAY OUT WHAT, YOU KNOW, THE FACTS. I MEAN, BECAUSE HIS ONLY DEFENSE IS A RELIGIOUS DEFENSE.

THE COURT: DO YOU FOLLOW WHAT WE ARE TALKING ABOUT NOW?

MR. BRUNSON: NOT EXACTLY, NO. IT'S STARTING TO GET FUZZY.

THE COURT: ENTER A PLEA OF GUILTY, THE IDEA BEING THERE WOULD BE NOTHING BUT A FINE.

MS. HAWKINS: IT WOULD BE OUR STANDARD OFFER ON A 12500.

THE COURT: THAT'S QUITE A BIT; THAT'S A HUNDRED FIFTY DOLLARS; ISN'T IT? WHICH COMES OUT TO 450 SOMETHING LIKE THAT. CLOSER TO 500.

MS. HAWKINS: YES
END PAGE 45 LINE 21

PAGE 57 LINE 1
MR. BRUNSON: I LIKE TO PUT SOMETHING ELSE ON THE RECORD.

THE COURT GO AHEAD.

MR. BRUNSON: THE SITUATION WITH THE SOCIAL SECURITY NUMBER AND THE DRIVER'S LICENSE AND THE REGISTRATION AS WE JUST LOOKED HERE AND I DON'T KNOW EXACTLY HOW TO DO THIS, BUT I LIKE TO HAVE IT ON THE RECORD THAT THE COMMINGLING OF THE, I HAVE A PROBLEM WITH THE COMMINGLING OF U.S. LAWS AND CALIFORNIA LAWS WHERE THE U.S. IS SAYING ONE THING, THAT THEIR SOCIAL SECURITY NUMBER IS VOLUNTARY AND THEN CALIFORNIA COMES IN AND SAYS YOU HAVE TO GET THAT SOCIAL SECURITY NUMBER TO USE OUR FORMS AND TO --

I, I JUST LIKE TO HAVE THAT ON THE RECORD

THE COURT: ALL RIGHT.

MR. BRUNSON: THIS, AS WE TALKED YESTERDAY, IS NOT GOING TO STOP HERE.

THE COURT: ALL RIGHT. I THINK YOU HAVE PERFECTED YOUR RECORD. ALTHOUGH THAT'S NOT FOR ME TO DECIDE.

BUT THE BASIS OF YOUR CHALLENGE WAS UNKNOWN TO ANYBODY, I WOULD SAY, UNTIL YOU BROUGHT IT UP YESTERDAY AND NOW IT'S IN THE MOTION THAT YOU JUST FILED THIS MORNING, TOO. AND THAT'S PART OF THE RECORD.

MR. BRUNSON: YES.

THE COURT: ALL RIGHT.
END PAGE 57 LINE 25

PAGE 102 LINE 14
(ON DENIAL OF JURY INSTRUCTION)

THE COURT: NECESSITY IS AFFIRMATIVE DEFENSE. I, FRANKLY, HAVE NOT RESEARCHED THIS, AS I INDICATED TO YOU, BUT I DO KNOW OF THE DEFENSE OF NECESSITY AND I DON'T BELIEVE RELIGIOUS BELIEF WOULD COVER, WOULD BE INCLUDED IN ANY OF THESE ASPECTS THAT ARE THAT ARE SUGGESTED.

MS. HAWKINS: HUH-HUH.

MR. BRUNSON: THE NECESSITY IS THAT I HAVE TO BE ABLE TO TRAVEL IN ORDER TO MAKE FOOD FOR MY FAMILY.

THE COURT: BUT, YOU DON'T HAVE TO DRIVE WITHOUT A LICENSE.

MR. BRUNSON: THEY WON'T GIVE ME A LICENSE. WE HAVE BEEN OVER THAT.

THE COURT: THAT IS A DIFFERENT ISSUE.

END PAGE 102 LINE 26

PAGE 178 LINE 10
(STATEMENT FROM JUDGE GUNN TO THE JURY PANEL AFTER RENDERING THE VERDICT OF GUILTY)

THE COURT: ALL RIGHT. THANK YOU, LADIES AND GENTLEMEN. YOU ARE FREE TO DISCUSS OR NOT DISCUSS THE CASE WITH ANY BODY.

THIS IS A LITTLE UNUSUAL, THIS CASE. YOU

MAY BE WONDERING WHY, WHEN THE FACTS SEEM SO OBVIOUS, IT WENT TO TRIAL. MR. BRUNSON STATES THAT HIS RELIGIOUS VIEWS PREVENT HIM FROM HAVING A SOCIAL SECURITY NUMBER. AND IT'S A REQUIREMENT OF THE DEPARTMENT OF MOTOR VEHICLES BY STATUTE THAT IN ORDER TO GET A DRIVER'S LICENSE OR REGISTRATION, YOU MUST HAVE A SOCIAL SECURITY NUMBER.

SO THIS PUT HIM IN THE POSITION WHERE HE DID NOT FEEL CONSISTENT WITH HIS RELIGIOUS VIEWS HE COULD GET A DRIVER'S LICENSE OR A VEHICLE REGISTRATION.

THIS AREA OF RECONCILING YOUR FIRST AMENDMENT RIGHT TO FREEDOM OF RELIGION AND SOCIETY'S NEED FOR REGULATION HAS BEEN A MATTER THAT BEEN HAS COMPLICATED AND THAT SOMETIMES WOUND UP IN THE U.S. SUPREME COURT. SUCH AREAS AS WHETHER THE STATE CAN REQUIRE FLAG SALUTES WHEN PEOPLE ARE OPPOSED TO IT ON RELIGIOUS GROUNDS OR WHETHER THEY CAN REQUIRE MEDICAL TREATMENT TO CHILDREN WHOSE PARENTS REFUSED AND SO ON.

BUT, ANYWAY, I THOUGHT YOU WOULD LIKE TO KNOW WHY WE WERE HERE ON A CASE THAT SEEMED TOO OBVIOUS. I BET SOME OF YOU WERE WONDERING WHY WE WERE GONG THROUGH THIS.

A JUROR: WHAT RELIGION IS IT, YOUR HONOR?

THE COURT WELL, I DIDN'T THINK IT WAS APPROPRIATE FOR ME TO INQUIRE ABOUT MR. BRUNSON'S RELIGIOUS VIEWS ANY MORE THAN NECESSARY TO UNDERSTAND WHAT HIS VIEWS

WERE.

YOU MAY WONDER WHY WE STARTED THE CASE AND HAD AN IMMEDIATE BREAK

FOR OVER AN HOUR OR SO. WE WERE TRYING TO FIGURE OUT A WAY OR, AT LEAST I WAS, THAT WE COULD RECONCILE THESE TWO IDEAS. BUT, WE WERE UNABLE TO REACH A RESOLUTION OF THE MATTER.

SO, OF COURSE, WE WENT AHEAD WITH THE TRIAL.

SO THANK YOU VERY MUCH AND YOU ARE EXCUSED.

MR. BRUNSON: I LIKE TO THANK THE JURY.

THANK YOU LADIES AND GENTLEMEN.